

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:

Leo Marine Services, Inc., Case Nos. 19-CA-273208
Olympic Tug & Barge, Inc., and
Centerline Logistics
Corporation,

and

Olympic Tug & Barge, Inc., 19-CA-273220

and

Centerline Logistics 19-CA-273226
Corporation, 19-CA-273928

and

Leo Marine Services, Inc., 19-CA-273985

and

Centerline Logistics 19-CA-273771
Corporation, Westoil Marine
Services, Inc., and Harley
Marine Financing, LLC,

and

Seafarers International Union, 19-CB-273986

and

Inlandboatmen's Union of the
Pacific,

and



Centerline Logistics
Corporation, Leo Marine
Services, Inc., and Olympic Tug
& Barge, Inc.

21-CA-273926

and

International Organization of
Masters, Mates & Pilots, AFL-
CIO.

Place: Los Angeles, California

Dates: January 23, 2023

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 21

<p>In the Matter of: LEO MARINE SERVICES, INC., OLYMPIC TUG & BARGE, INC., AND CENTERLINE LOGISTICS CORPORATION,</p>	<p>Case Nos. 19-CA-273208</p>
<p>and</p>	
<p>OLYMPIC TUG & BARGE, INC.,</p>	<p>19-CA-273220</p>
<p>and</p>	
<p>CENTERLINE LOGISTICS CORPORATION,</p>	<p>19-CA-273226 19-CA-273928</p>
<p>and</p>	
<p>LEO MARINE SERVICES, INC.,</p>	<p>19-CA-273985</p>
<p>and</p>	
<p>CENTERLINE LOGISTICS CORPORATION, WESTOIL MARINE SERVICES, INC., AND HARLEY MARINE FINANCING, LLC,</p>	<p>19-CA-273771</p>
<p>and</p>	
<p>SEAFARERS INTERNATIONAL UNION</p>	<p>19-CB-273986</p>
<p>and</p>	
<p>INLANDBOATMEN'S UNION OF THE PACIFIC</p>	
<p>and</p>	

21-CA-273926

CENTERLINE LOGISTICS
CORPORATION, LEO MARINE
SERVICES, INC., AND OLYMPIC TUG
& BARGE, INC.

and

INTERNATIONAL ORGANIZATION OF
MASTERS, MATES & PILOTS, AFL-
CIO

The above-entitled matter came on for hearing pursuant to notice, before **IRA SANDRON**, Administrative Law Judge, at the National Labor Relations Board, Region 21, 312 North Spring Street, Tenth Floor, Los Angeles, California 90012, on **Monday, January 23, 2023, 9:04 a.m.**



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John Nelsen Skow 2296, 2483

E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
General Counsel:		
GC-34	2380	2386
GC-35	2386	2390
GC-36	2390	2393
GC-38	2416	2417
GC-39	2417	2418
GC-40	2425	2425
GC-41	2431	2437
GC-42	2431	2437
GC-43	2438	2439
GC-44	2441	2441
GC-46	Error! Bookmark not	
defined.	2458	
GC-47	Error! Bookmark not	
defined.	2459	
GC-49	2472	2473
GC-50	2477	2478
GC-158	2348	2336
GC-159	2372	2379
GC-207	2478	2480
GC-208	2480	2481
GC-237 (a) through 237 (u)	2291	2292

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1 P R O C E E D I N G S

2 JUDGE SANDRON: Okay. Back on the record in the
3 resumption of the Leo Marine trial. The General Counsel's
4 protocols that we previously discussed are still in effect.
5 Masks are optional, but perhaps recommended, but in any event,
6 they are available from the General Counsel if -- if anybody
7 feels they would want one.

8 We are fortunate, again, to have Jacqui Denlinger continue
9 as our court reporter.

10 So I believe we had left off last time with the General
11 Counsel having one last witness to present; is that correct?

12 MS. YASSERI: Yes, Your Honor, that is correct.

13 JUDGE SANDRON: Okay. Do you have that witness available?

14 MS. YASSERI: Yes, we do, Your Honor. If -- if I may,
15 there are --

16 JUDGE SANDRON: Yes.

17 MS. YASSERI: -- a few preliminary items that we'd like to
18 discuss before we put on our -- our last witness.

19 JUDGE SANDRON: All right. Go ahead.

20 MS. YASSERI: I'd like to, at this time, offer another set
21 of formal papers. They are identified as General Counsel's
22 Exhibit 237(a) through 237(u), with 237(u) being an index and
23 description of the entire exhibit.

24 This exhibit has been emailed to all the parties prior to
25 today, and the General Counsel now offers --

1 JUDGE SANDRON: Yes.

2 MS. YASSERI: -- the formal papers into evidence.

3 JUDGE SANDRON: So is -- this supersedes the earlier
4 formal papers?

5 MS. YASSERI: This is in -- in addition to.

6 JUDGE SANDRON: Oh in addition, all right.

7 MS. YASSERI: Yes.

8 JUDGE SANDRON: These are in addition. And -- and that
9 covers us up to -- to date?

10 MS. YASSERI: Yes.

11 JUDGE SANDRON: Mr. Hilgenfeld, any objection to these
12 documents?

13 MR. HILGENFELD: No objection, Your Honor.

14 JUDGE SANDRON: They are received.

15 **(General Counsel Exhibit Number 237(a) through 237(u) Received**
16 **into Evidence)**

17 MS. YASSERI: Thank you, Your Honor. The General Counsel
18 also seeks to amend the consolidated complaint to also allege
19 Harley Marine Financing, LLC as an alter ego of Centerline
20 Logistics Corporation and Westoil Marine Services, Inc. This
21 is in addition to our single employer theory. And we'd also
22 amend the complaint to allege that on our -- on or about
23 February 8th, 2021, Respondents, by Operations Manager Brian
24 Vartan, during a telephonic conversation, informed an applicant
25 that he could not hire all of the Union guys at one time.

1 Notice was provided to Respondents' counsel regarding
2 these amendments via email on January 6th, 2023.

3 JUDGE SANDRON: Any objection to the -- the amendments?
4 We assume they'll be denied, but any objection to the
5 amendments themselves?

6 MR. HILGENFELD: We do object to the alter ego amendment,
7 Your Honor.

8 JUDGE SANDRON: And on what basis?

9 MR. HILGENFELD: There's not been sufficient evidence put
10 forward where the -- in the General Counsel's case. There's no
11 more individuals that would go to the alter ego theory, and
12 there's -- it would be improper in our opinion.

13 JUDGE SANDRON: All right. Well, I -- I think that will
14 be something that will have to be -- I'll have to determine
15 later -- if you're correct, then I won't find merit to the
16 allegation, but the -- the amendment itself is allowed. There
17 is still adequate opportunity for you to respond in -- in any
18 fashion you wish, if -- if you feel that it's necessary.

19 So the amendments are allowed.

20 MS. YASSERI: Thank you, Your Honor.

21 JUDGE SANDRON: Could you just repeat that first
22 amendment? I just wanted to -- because I know we have a lot of
23 companies -- to make sure I have it. So Harley Marine --

24 MS. YASSERI: Financing, LLC --

25 JUDGE SANDRON: Right, okay.

1 MS. YASSERI: -- as an --

2 JUDGE SANDRON: There's an L --

3 MS. YASSERI: -- alter ego of Centerline Logistics
4 Corporation and Westoil Marine Services, Incorporated.

5 JUDGE SANDRON: Okay, very good. I think I'll use
6 abbreviation -- or acronyms. Okay, very good.

7 So I don't know if -- if -- if the parties have
8 stipulations, I'll leave it up to counsels whether you want to
9 do those now or you want to hold off on that until after the
10 next witness, but it's your choice.

11 MR. HILGENFELD: We can hold off because I think we have
12 another conversation to go, so we can all do it at one time.

13 JUDGE SANDRON: Okay. So I -- I think then we're ready
14 for the last witness. Or --

15 MS. YASSERI: Yes, Your Honor.

16 JUDGE SANDRON: -- is there anything further?

17 MS. YASSERI: Yes, Your Honor. My cocounsel, Mr. Rimbach,
18 has gone to get our witness.

19 JUDGE SANDRON: Very good. Okay. We'll go off the record
20 just for a moment.

21 (Off the record at 9:10 a.m.)

22 JUDGE SANDRON: Mr. Wojciechowski, do you want to repeat
23 what you said off the record so we have it on the record.

24 MR. WOJCIECHOWSKI: Sure. Well, I mean, I -- Ms. Derry
25 might -- well, maybe I'll let Ms. Derry make an appearance.

1 JUDGE SANDRON: All right.

2 MS. DERRY: All right. Good morning, Your Honor. My name
3 is Sarah Derry. I am counsel for the IBU. My office filed a
4 notice of appearance previously. We are sharing a table but we
5 are representing different parties.

6 JUDGE SANDRON: Okay. Yes, I believe you were involved in
7 some of our earlier proceedings. Correct?

8 MS. DERRY: I -- I don't believe so, Your --

9 JUDGE SANDRON: Oh wait --

10 MS. DERRY: -- Honor. I believe my colleagues were.

11 JUDGE SANDRON: Well, did you -- it really doesn't matter,
12 but I think your name was on the original list of counsels.
13 But in any event, your appearance today is on the record.

14 MS. DERRY: Thank you.

15 JUDGE SANDRON: Off the record just a minute.

16 (Off the record at 9:13 a.m.)

17 JUDGE SANDRON: Back on the record. Thank you. I'm going
18 to have to make sure we get everything recorded. And our court
19 reporter can ably assist if there's any issue.

20 Sir, I'm Judge Sandron. I'm going to go ahead and swear
21 you in. You have your hand raised.

22 Whereupon,

23 **JOHN NELSEN SKOW**

24 having been duly sworn, was called as a witness herein and was
25 examined and testified as follows:



1 JUDGE SANDRON: Okay. Kindly be seated. If you could
2 state and spell your full and correct legal name, and provide
3 us with an address, either work or residence.

4 THE WITNESS: It's John, J-O-H-N, Nelsen, N-E-L-S-E-N,
5 Skow, S-K-O-W. And my work address is 1911 North Gaffey
6 Street, Suite A, in San Pedro, California, 90731.

7 JUDGE SANDRON: Okay. please proceed.

8 **DIRECT EXAMINATION**

9 Q BY MS. YASSERI: Good morning, Mr. Skow.

10 A Good morning.

11 Q Mr. Skow, who is your current employer?

12 A It's the Inlandboatmen's Union of the Pacific.

13 Q Is it commonly known as the IBU?

14 A Yes.

15 Q What is your current position at the IBU?

16 A I'm the Regional Director of the Southern California
17 Region.

18 Q And how long have you held that position?

19 A Since July of 2009.

20 Q Is that an elected position?

21 A Yes.

22 Q And when were you reelected to your current term?

23 A It was December 15th, 2020.

24 Q When does your current term expire?

25 A It expires on December 15th, 2023.



1 Q And when did the election take place for this current
2 term?

3 A It took place during October 15th, 2020 through December
4 14th, 2020.

5 Q And when were the ballots counted for that election?

6 A December 15th, 2020.

7 Q Now, prior to serving as Regional Director of the Southern
8 California Region for the IBU, did you hold any other positions
9 within the IBU?

10 A Yes, I did.

11 Q Okay. And what were those positions?

12 A I was the shop steward at Link's Marine. Also for Westoil
13 Marine Services. I was a member of our Regional Executive
14 Board. I was the chairman of our Regional Executive Board.
15 And I was also a patrolman, off and on, when required by the
16 last regional director.

17 Q Now, going back to your service as a shop steward. What
18 was the period of time in which you served in -- in that role?

19 A When I was the shop steward for Link's Marine, it was
20 approximately 1995 to 1999.

21 Q And did you serve as a shop steward for Westoil?

22 A Yes. It was 2000 to approximately 2009.

23 Q And what about your service as a patrolman, what period of
24 time did you work as a patrolman?

25 A It was off and on during the years of 2006 through 2009.

1 Q And you also mentioned that you served as the chairman of
2 the executive board. What period of time did you do that?

3 A It was the years 2003 through 2009.

4 Q Now, what are some of your job duties as Regional Director
5 for the Southern California Region of the IBU?

6 A Well, I manage the day-to-day operations of the region. I
7 manage the secretary and the patrolmen of the region. I
8 process members' complaints, members' grievances. I also --
9 I -- I am a trustee for the Union's health and pension plans.

10 Q And who do you report to?

11 A I mainly report to National President Jay Ubelhart.

12 Q You said mainly. Are there other people that you report
13 to?

14 A Yes. I also report at our meetings to the National
15 Executive Council.

16 Q And who does the Executive Council consist of?

17 A That consists of National President Jay Ubelhart, National
18 Secretary Terry Mast, and all the regional directors from the
19 various regions that we have.

20 Q What are the names of some of the companies in Southern
21 California that the IBU has a collective bargaining
22 relationship with?

23 A Okay. I'll start south and work my way up.

24 JUDGE SANDRON: Okay. And if you -- you could spell them,
25 except for the ones that we already have, you know, in this

1 case. But if there are any others that you're going to spell,
2 just so we make sure we have them.

3 THE WITNESS: I hope I can spell because I'm a bad
4 speller --

5 JUDGE SANDRON: Yeah.

6 THE WITNESS: -- sir.

7 JUDGE SANDRON: Well, as best as you can. And if -- if
8 counsels know otherwise, any counsel, you can --

9 THE WITNESS: Okay.

10 JUDGE SANDRON: -- add it.

11 THE WITNESS: Okay. I'll start with Scripps Institute.
12 It is one -- Pacific Tugboat Services.

13 JUDGE SANDRON: Is that one word, Tugboat?

14 THE WITNESS: Yes, sir. Let's see here. Manson
15 Construction Company.

16 JUDGE SANDRON: What's that one? Can you spell --

17 THE WITNESS: Man -- Manson, M-A-N-S-O-N.

18 JUDGE SANDRON: Okay.

19 THE WITNESS: Construction Company. It's -- Santa
20 Catalina Island Resorts is another one. Sause Bros.

21 JUDGE SANDRON: And can you spell that one?

22 THE WITNESS: Yes. It's S-A-U-S-E, and then Bros. The
23 next one is Connolly-Pacific.

24 JUDGE SANDRON: And can you spell that one?

25 THE WITNESS: C-O-N-N-O-L-L-Y, with a hyphen, and Pacific,



1 P-A-C-I-F-I-C.

2 JUDGE SANDRON: Okay.

3 THE WITNESS: Let's see. There's MSRC is another one,
4 Marine Spill Response Corporation. Then we have Foss, which is
5 spelled, F-O-S-S, Long Beach. And then we have another Foss,
6 El Segundo, which is El Segundo is spelled E-L --

7 JUDGE SANDRON: Oh, that -- that's okay. I think we know
8 that one.

9 THE WITNESS: Okay. All right. Let's see. And then we
10 have, of course, Westoil is another one. And then a new
11 company that we just organized recently is called Stax
12 Engineering.

13 JUDGE SANDRON: And -- and that's --

14 THE WITNESS: Spelled S-T-A-X Engineering. I think that's
15 it, I believe.

16 JUDGE SANDRON: And -- and just so we have it, that --
17 that new company has no relationship to any of the companies
18 with which we're dealing here?

19 THE WITNESS: No, sir, it's standalone.

20 JUDGE SANDRON: Okay.

21 Q BY MS. YASSERI: When you said Westoil, Mr. Skow, was that
22 Westoil Marine Services?

23 A Yes, Westoil Marine Services.

24 Q How long has the IBU represented Westoil Marine employees?

25 A Since the year -- approximately the year 2000.



1 Q And how many facilities does Westoil Marine Services have?

2 A One facility.

3 Q And where is it located?

4 A At LA Bertha 301, 1610 Barracuda Street, on Terminal
5 Island. I think the ZIP Code's 90731, I believe. I think it's
6 the same as San Pedro.

7 Q Is Westoil currently operating?

8 A Yes.

9 Q Can you describe the work that Westoil performed prior to
10 2023?

11 A Westoil is a marine transportation company.

12 Q And what type of work did they specifically engage in?

13 A Westoil, they -- what they do is they deliver bunker fuel,
14 on fueling barges, to ships on call in LA Long Beach harbors.

15 Q Do you know whether Westoil Marine Services performed work
16 for certain customers?

17 A Yes.

18 Q In the last three years, Mr. Skow, have the customers
19 serviced by Westoil changed in any way?

20 A Yes, they have.

21 Q How so?

22 A Well, I can start back in March 1st of 2021, where the
23 Glencore work was transferred to another Centerline subsidiary.
24 And by then -- the end of -- at the end of the year of 2021, we
25 had a contract with Peninsula but I believe Peninsula left the

1 LA Long Beach market. And then at the end of the year 2022, we
2 had a contract with Minerva, but Minerva has now left the LA
3 Long Beach market.

4 Q You referenced the customer Glencore. What kind of
5 company is Glencore?

6 A Glencore is a provider -- oil -- correction. They're a
7 oil trading company. They're a supplier of marine oil
8 products.

9 Q Do you have any knowledge regarding the contractual
10 relationship between Glencore and Westoil prior to March 1st,
11 2021?

12 A My understanding was that Centerline --

13 MR. HILGENFELD: Objection. Foundation.

14 JUDGE SANDRON: Well -- well, I think he --

15 MS. YASSERI: I asked him if he knows; does he have any
16 knowledge.

17 MR. HILGENFELD: But then he --

18 JUDGE SANDRON: Well, I --

19 MR. HILGENFELD: -- didn't answer that question. He
20 answered a different question. He doesn't have the foundation
21 to answer the question he was answering.

22 JUDGE SANDRON: Well, I -- I think he can give his
23 understanding, and then counsel can see what the basis of that
24 is. And then, of course, you'll -- you'll have an opportunity
25 to cross-examine him as well. But I -- I'll allow the

1 question, and then counsel can see if the foundation makes the
2 testimony probative.

3 MS. YASSERI: Thank you, Your Honor.

4 THE WITNESS: Can you repeat the --

5 MS. YASSERI: Yes.

6 THE WITNESS: -- question, please?

7 Q BY MS. YASSERI: Yes, Mr. Skow. Do you have any knowledge
8 regarding the contractual relationship between Glencore and
9 Westoil prior to March 1st, 2021?

10 A My understanding is that Centerline somehow was a holder
11 of that agreement, and then signed it -- assigned it to
12 Westoil. That's my understanding.

13 JUDGE SANDRON: And what -- what --

14 Q BY MS. YASSERI: How do you know -- I'm sorry. How do you
15 know that, Mr. Skow?

16 A I previously worked for the company for 20 years, and
17 that's how I know.

18 JUDGE SANDRON: Well, was it any -- do you -- do you
19 recall who -- who told you about that, you know, how you
20 learned about it?

21 THE WITNESS: Through meetings with management.

22 JUDGE SANDRON: Can -- can you recall any -- any specific
23 representatives of Westoil who -- who told you that or --

24 THE WITNESS: To be honest, I -- I would have to think way
25 back. I mean --

1 JUDGE SANDRON: Well --

2 THE WITNESS: -- 20 years is a long time to think back.
3 That's over --

4 JUDGE SANDRON: All right.

5 THE WITNESS: -- the -- my understanding is over the
6 years, we always serviced that contract.

7 JUDGE SANDRON: Well -- but in terms of the -- what you
8 said about Centerline, do you -- do you -- anybody from
9 management give you information that led you to that
10 conclusion? Or -- or is that just something that was -- what
11 would you recall -- like common knowledge without being
12 specifically imparted by management? You can think for a
13 minute and then let us know. Or -- or if you saw anything in
14 writing that led you to that conclusion.

15 THE WITNESS: I -- I cannot answer that question.

16 JUDGE SANDRON: All right.

17 THE WITNESS: I --

18 JUDGE SANDRON: All right, that's fine. It's -- it's --
19 you know, what -- whatever you -- you know.

20 MR. HILGENFELD: Your Honor, I'd move to strike for lack
21 of foundation.

22 JUDGE SANDRON: Well, it's in the record, but I -- I think
23 if it doesn't have foundation, then it -- it can't be
24 considered probative.

25 Q BY MS. YASSERI: Mr. Skow, have you ever seen the contract

1 related to work that Westoil was performing for Glencore up
2 until March 1st, 2021?

3 A No, I have not.

4 Q Now, you mentioned Centerline. What's your understanding
5 of the corporate relationship between Centerline and Westoil?

6 A Well, Centerline is the parent company and Westoil's the
7 subsidiary of Centerline.

8 Q Have you heard of the name Harley Marine Financing, LLC?

9 A Yes, I have.

10 Q When did you first hear that name?

11 A I became aware of Harley Marine Financing through
12 informational demands that I received from the company when I
13 requested information.

14 Q And when was that?

15 A I received that information on -- on or about February
16 17th, 2021.

17 Q What is your understanding of what Harley Marine
18 Financing, LLC does as a company?

19 JUDGE SANDRON: All right. Do we have that document -- I
20 think he's referring --

21 Did you get that in writing? I don't know if it's --

22 MS. YASSERI: It --

23 JUDGE SANDRON: -- in the record.

24 MS. YASSERI: It's forthcoming, Your Honor --

25 JUDGE SANDRON: Oh I see.

1 MS. YASSERI: -- throughout the examination.

2 JUDGE SANDRON: All right.

3 MS. YASSERI: It's in the queue. Thank you.

4 JUDGE SANDRON: Go ahead.

5 THE WITNESS: Can you please re --

6 JUDGE SANDRON: Do you want to repeat the question?

7 MS. YASSERI: Yes.

8 Q BY MS. YASSERI: Mr. Skow, what is your understanding of
9 what Harley Marine Financing does as a company?

10 A What I could gather, Har -- Harley Marine Financing kind
11 of like holds the pink slips for all the equipment for like the
12 barges and -- and the tugs. And I believe Center -- Centerline
13 was telling --

14 JUDGE SANDRON: All right.

15 A -- who they assigned that equipment to.

16 JUDGE SANDRON: Yeah, don't -- don't -- don't just
17 speculate. Just what you -- so have you seen those kind of
18 documents that Harley Marine Financing has produced or used?

19 THE WITNESS: No, I have not.

20 JUDGE SANDRON: So -- so what do you base that -- you --
21 you were saying what you -- you know, you mentioned these
22 documents that they have used.

23 THE WITNESS: I -- I based that on -- on the information
24 request that I received --

25 JUDGE SANDRON: All right.

1 THE WITNESS: -- and in talking with my job stewards
2 and --

3 JUDGE SANDRON: All right.

4 THE WITNESS: -- that. And I believe one of them may have
5 mentioned something about COIs and all that. So we --

6 JUDGE SANDRON: All right.

7 THE WITNESS: -- engage in conversations about --

8 JUDGE SANDRON: But the only thing --

9 THE WITNESS: -- all that.

10 JUDGE SANDRON: -- the only thing you got actually from
11 management was that -- through the information request?

12 THE WITNESS: Yes. Yes, sir.

13 JUDGE SANDRON: Okay.

14 Q BY MS. YASSERI: Just for clarity, what -- what is a COI?

15 A It's like a -- a COI is basically -- it's a document
16 that's put on the equipment that kind of says what the manning
17 should be. And kind of like who -- who owns the equipment, I
18 believe, is on there.

19 Q Do you know if Harley Marine Financing itself holds the
20 oil contracts for Centerline subsidiaries to perform work in
21 the L.A./Long Beach Harbor?

22 A No. I'm --

23 MR. HILGENFELD: Objection. Foun --

24 JUDGE SANDRON: All right. Well, I think he said no.

25 MR. HILGENFELD: Okay.

1 JUDGE SANDRON: So that is the answer.

2 Q BY MS. YASSERI: Mr. Skow, were you ever given notice that
3 the Glencore contract under which Westoil performed work was
4 owned by Harley Marine Financing?

5 A Can you repeat that question again, please?

6 Q Were you ever given notice by either Centerline or Harley
7 Marine Financing or Westoil that the Glencore contract under
8 which Westoil performed work was owned by Harley Marine
9 Financing?

10 A No.

11 Q Now, do you know whether Harley Marine Financing is
12 corperly -- corporately related to Centerline?

13 A I believe that they're a subsidiary.

14 JUDGE SANDRON: All right. Well, I think we have a -- you
15 know, we have other evidence of that I think is more definite.

16 MR. HILGENFELD: It's not disputed that Harley Marine
17 Financing has a subsidiary relationship. I don't think Mr.
18 Skow would have any knowledge as --

19 JUDGE SANDRON: Right.

20 MR. HILGENFELD: -- to how the company is --

21 JUDGE SANDRON: Well, it's uncontested fact.

22 MS. YASSERI: I'll move on.

23 Q BY MS. YASSERI: Mr. Skow, I'm going to show you what's
24 been already admitted into evidence as General Counsel's
25 Exhibit 28. Do you recognize this document?

1 A Yes, I do.

2 Q And what is it?

3 A It is the collective bargaining agreement between Westoil
4 Marine Services, Millennium Maritime, and the IBU.

5 Q Does the IBU still represent employees of Millennium
6 Maritime?

7 A No.

8 Q And why not?

9 A Because when I was informed on December 28th, 2020, that
10 the Millennium brand, along with the contracts and ship asip --
11 ship assist contracts were part of an asset sale that -- to
12 Saltchuk.

13 Q Were you involved in --

14 JUDGE SANDRON: Wait. Was that the same document?
15 That -- that's not the information request response. That's
16 something different.

17 THE WITNESS: That's something different, sir.

18 JUDGE SANDRON: Oh, a different document.

19 Q BY MS. YASSERI: Mr. Skow, were you involved in
20 negotiating this collective bargaining agreement?

21 A Yes, I was.

22 Q I want to direct your attention to page 35 of the exhibit.
23 Is that -- is that your signature there?

24 A Yes, it is.

25 Q Now, who represented Westoil with regard to negotiation of

1 this collective bargaining agreement?

2 A It was Mr. Hilgenfeld.

3 UNIDENTIFIED SPEAKER: Excuse me.

4 MR. HILGENFELD: Sorry.

5 UNIDENTIFIED SPEAKER 2: Sorry.

6 Q BY MS. YASSERI: Okay. Do you see Mr. Hilgenfeld present
7 in this hearing room today?

8 A Yes, I do.

9 Q Okay. Now, other than Westoil Marine Services, are there
10 currently any other signatories to this collective bargaining
11 agreement?

12 A It's Westoil Tugboat (sic) Services --

13 Q And if you can --

14 A -- or Westoil Tug Services. I --

15 Q And what kind of company is Westoil Tug Services?

16 A They are a company that supports the Westoil operation by
17 providing a -- a tugboat for the -- the barges under that
18 agreement.

19 Q Now, the CBA states that it was effective until November
20 30th, 2022. Were there any discussions between the IBU and
21 Westoil regarding a successor contract?

22 JUDGE SANDRON: Yeah. Before we get to the -- the
23 Westoil -- you say Westoil Tug Services was -- is now under
24 the -- or was under this contract?

25 THE WITNESS: Yes. What they did is they took the place

1 of -- I believe it was Millennium Maritime.

2 JUDGE SANDRON: Oh, okay. Oh, that's -- all right. So
3 they be -- they became a successor to --

4 THE WITNESS: Yes, sir.

5 JUDGE SANDRON: -- Millennium. I believe that was
6 already --

7 THE WITNESS: Yeah. Because --

8 JUDGE SANDRON: -- in the record, (indiscernible).
9 Correct?

10 MR. HILGENFELD: It is, except for the ship assist, which
11 Mr. Skow told the ship assist was sold.

12 JUDGE SANDRON: Okay. Thank you.

13 Q BY MS. YASSERI: Mr. Skow, going back to my prior question
14 about the expiration date of the CBA that states November 30,
15 2022, were there any discussion between the IBU and Westoil
16 regarding a successor contract?

17 A Yes.

18 Q And when was that?

19 A It -- it had to be 60 days prior to the expiration of the
20 agreement. We sent out notices, and we sent a notice to the
21 company with our desire to open the agreement, negotiate terms
22 and conditions.

23 Q Did an actual meeting take place?

24 A Yes, it did.

25 Q And when was that?



1 A I think it was November 16th, 2023.

2 JUDGE SANDRON: You mean '22.

3 Q BY MS. YASSERI: You mean 2022?

4 A '22, I meant. I'm sorry.

5 Q And who represented Westoil at this meeting?

6 A That was Mr. Hilgenfeld and Matt Hathaway.

7 Q And what was Mr. Hathaway's role at Westoil at the time?

8 A He's the operations manager.

9 Q Okay. And who represented the IBU at this meeting?

10 A I did.

11 Q Okay. And what was generally discussed --

12 JUDGE SANDRON: All right.

13 Q BY MS. YASSERI: -- at this meeting?

14 JUDGE SANDRON: Wa- -- was this an in-person meeting or --
15 or by remote?

16 THE WITNESS: It was an in-person meeting.

17 JUDGE SANDRON: Okay. And where was it held?

18 THE WITNESS: It was held at our IBU hall.

19 JUDGE SANDRON: And do you remember the time of day that
20 it took place?

21 THE WITNESS: It was in the morning.

22 JUDGE SANDRON: An -- and about how long did the meeting
23 last?

24 THE WITNESS: Approximately two hours.

25 Q BY MS. YASSERI: And just to clarify, were the -- were you

1 the only representative present at this meeting on behalf of
2 the IBU?

3 A Well, I had a negotiation committee with me also.

4 Q Okay. Who were some of the individuals who were part of
5 that committee?

6 A Cris Sogliuzzo, and I believe Nolan Padilla was there.

7 Q And as best as you can recall, what was discussed at this
8 meeting on the 16th?

9 MR. HILGENFELD: I'm going to object to relevance.

10 MS. YASSERI: It's just for background, Your Honor.
11 There's been some developments with respect to Westoil's
12 operations and General Counsel thinks it's important to get it
13 on the record for background.

14 JUDGE SANDRON: All right.

15 MR. HILGENFELD: It's not -- whatever's happened has no
16 relevance to the charges that's before you. It's dealing with
17 the successor agreement, dealing with other issues that are far
18 beyond this hearing.

19 MS. YASSERI: We still believe it's relevant, Your Honor.

20 JUDGE SANDRON: All right. Well, it's -- it's a little
21 bit hard to --

22 MS. YASSERI: I don't have much regarding this topic.

23 JUDGE SANDRON: Yeah.

24 MS. YASSERI: It'll be very brief.

25 JUDGE SANDRON: And it's a little bit hard to determine in

1 a vacuum whether it's of -- is or is not relevant, so I'll
2 allow it and decide later whether it has any bearing on the
3 allegations that we need to address here.

4 MS. YASSERI: Thank you, Your Honor.

5 Q BY MS. YASSERI: Mr. Skow, can you just briefly describe
6 for us what was discussed at this meeting on November 16th,
7 2022?

8 JUDGE SANDRON: Well, I mean, as best as you can remember
9 who said what, if -- if you can tell us.

10 A Oh. Mainly, it was a lot of questions being asked back
11 and forth. We were asked for a proposal. We did not have a
12 proposal prepared. We wanted to kind of know what the future
13 was for Westoil. We asked questions in regards to the -- to
14 that topic. And what I could remember is that we wanted to put
15 together a proposal in the afternoon to have ready for them for
16 the next day, so we entered the meeting -- it wasn't a very
17 long meeting -- and we wanted to put to -- put together a
18 dispatcher proposal.

19 JUDGE SANDRON: Di -- did you put one together?

20 THE WITNESS: Yes, we did. We took the afternoon and put
21 one together.

22 Q BY MS. YASSERI: And you mentioned for a meeting the next
23 day. Did you participate in a meeting the next day?

24 A We did not. The meeting was cancelled for the next day.

25 Q Why? Why was it cancelled?

1 A There was no reason given.

2 JUDGE SANDRON: Wa -- well, who cancel- --

3 Q BY MS. YASSERI: Who cancelled it?

4 JUDGE SANDRON: Right.

5 A The company did.

6 Q BY MS. YASSERI: Do you remember who specifically from the

7 company?

8 A Mr. Hilgenfeld.

9 JUDGE SANDRON: Wa -- was that orally or in writing?

10 THE WITNESS: I believe it was by phone call. I believe

11 so.

12 JUDGE SANDRON: Okay. To you? Was it to you, the phone

13 call?

14 THE WITNESS: Yes, sir.

15 JUDGE SANDRON: All right.

16 THE WITNESS: I believe so.

17 Q BY MS. YASSERI: And after you received that phone call

18 from Mr. Hilgenfeld, when is the next time that you heard from

19 Westoil?

20 A I believe it was around the first of December.

21 Q Okay.

22 A Right around that date.

23 Q Okay. And how -- how did you hear from them?

24 A I received an email letter.

25 Q From who?

1 A From Mr. Hilgenfeld.

2 Q And what was the letter regarding?

3 A That Westoil intended to close its operations, and they
4 wanted to know if we wanted to bargain the effects.

5 Q Okay. And did you provide a response to that letter?

6 A Yes, I did answer that letter. And --

7 Q And how did you do that?

8 A I believe I wrote a letter back and confirmed that we do
9 want to -- we do want to bargain the effects --

10 Q Okay.

11 A -- of the closing.

12 Q And was there a -- a meeting set to bargain over the
13 effects regarding the closure?

14 JUDGE SANDRON: All right. I -- I don't know if we need,
15 really, to go much more into those matters. I mean, unless
16 the -- if there's any claim about anti-bargaining, it's not --
17 not before me as far as the bargaining over the closure.
18 Maybe, if -- if you want to just get in, so it's in the record,
19 the current situation, that'd be fine. But I don't think we
20 need step-by-step, you know, what's occurred.

21 MR. HILGENFELD: And Mr. Skow's already testified that
22 Westoil's still operational.

23 JUDGE SANDRON: But I mean as far as the effects
24 bargaining, if you just want to give the -- the, you know,
25 current situation with regard to any bargaining. Or -- or if

1 it end in what ha- -- you know, the date. Because again, it --
2 we -- we're not dealing with a bad-faith bargaining on -- on
3 this matter.

4 MS. YASSERI: I understand, Your Honor. It -- it would --
5 just goes to the remedy that we would be seeking.

6 Q BY MS. YASSERI: But I can -- I can move on and just ask
7 Mr. Skow where things currently stand with respect to --

8 JUDGE SANDRON: Yes.

9 Q -- effects bargaining between the IBU and Westoil.

10 A As of right now, we are scheduled to meet at the end of
11 the month, on January 30th, to continue effects bargaining.

12 Q And just -- just a quick follow-up, have there been any
13 proposals provided by the IBU up until today?

14 A Yes.

15 Q Has there been a response provided by Westoil to the IBU?

16 A No, they're not.

17 Q And I'm -- I want to go back --

18 JUDGE SANDRON: Wha -- wha -- one question, because --
19 since we did bring up the service. So Westoil is operating
20 now. And di -- as from what you understand from talking with
21 the company, so do they have a definite date that they are
22 going to stop operations or it is more indefinite?

23 THE WITNESS: They have not give us a definite date yet,
24 when in -- when they are going to close operations. We --

25 JUDGE SANDRON: All right. That's fine. So is it --

1 THE WITNESS: Yeah.

2 JUDGE SANDRON: So -- so they haven't given you a certain
3 date yet?

4 THE WITNESS: No, sir.

5 JUDGE SANDRON: All right.

6 Q BY MS. YASSERI: Mr. Skow, what's your understanding of
7 the current status of the equipment that was operated by
8 Westoil prior to 2023?

9 A May I ask a question?

10 JUDGE SANDRON: Well --

11 MS. YASSERI: No.

12 THE WITNESS: No, I can't. Oh, I'm sorry.

13 JUDGE SANDRON: Well, if you don't -- if -- if you need it
14 to be clarified or you have, you know, you can ask that counsel
15 rephrase it or clarify it if you're not sure what she's asking.

16 THE WITNESS: Okay. Can you rephrase that, please?

17 MS. YASSERI: Sure.

18 THE WITNESS: Okay.

19 Q BY MS. YASSERI: Well, let me ask it this way, to your
20 knowledge, are -- are Westoil's em -- employees actually
21 performing bunkering work at this current point in time?

22 MR. HILGENFELD: Objection. Foundation.

23 JUDGE SANDRON: Well, I think --

24 MS. YASSERI: To his knowledge.

25 JUDGE SANDRON: Right. I think -- he -- he -- again, he



1 can answer it and she can see if there's adequate foundation.

2 A As of now, from what I'm (sic) been told from my stewards,
3 is that they're -- they did some work, I think up until last
4 weekend --

5 JUDGE SANDRON: All right.

6 A -- and that was supposed to be it, to my understanding.

7 JUDGE SANDRON: All right. Ha -- all right.

8 MR. HILGENFELD: I'm going to move to strike for hearsay.

9 JUDGE SANDRON: I -- I'm not sure that we can --

10 MR. HILGENFELD: It's actually double hearsay.

11 JUDGE SANDRON: -- can really consider that --

12 MS. YASSERI: I'll move on.

13 JUDGE SANDRON: -- eviden -- as -- as relevant evidence or
14 reliable evidence. I mean, if you -- if you have actual
15 Westoil em -- employees that's -- that would be a different
16 case. But -- although, again, we're getting into things that
17 post-date the allegations.

18 MS. YASSERI: I'll move on, Your Honor.

19 Q BY MS. YASSERI: Now, Mr. Skow, I'd like to go back to GC
20 Exhibit 28, the collective bargaining agreement. We've
21 mentioned before that it was set to expire on the 30th of
22 November 2022. Did the IBU and Westoil negotiate any
23 extensions?

24 A Yes. We did one extension, for a month.

25 Q And -- and can you just clarify up until what point of

1 time?

2 A Yes. It was extended to January 2nd, 2023.

3 Q Did the IBU request any additional extensions that post-
4 date January 2nd, 2023?

5 A Yes. I sent over -- I drafted up an extension and sent it
6 to Westoil management for consideration.

7 Q And what is the status of that request?

8 MR. HILGENFELD: I'm going to object. This whole line of
9 questioning, it's not relevant to what we're here for.

10 JUDGE SANDRON: Well -- well --

11 MS. YASSERI: It's relevant to background, Your Honor.
12 This collective bargaining agreement is in the record. I'm
13 just merely explaining --

14 JUDGE SANDRON: All right. Well --

15 MS. YASSERI: -- seeking explanation as to the current
16 status.

17 JUDGE SANDRON: All right. I'll let you ask the current
18 status. But then, I think Mr. Hilgenfeld's objections are well
19 taken. So I'll allow you to -- you know, so it's in the -- we
20 have it in the record. But again, we don't want to spend
21 unnecessary time on that subject. So --

22 MS. YASSERI: Understood, Your Honor. That was the last
23 question. So if I can just clarify.

24 Q BY MS. YASSERI: Mr. Skow, what was the sta -- what's the
25 status of the response from Westoil to that additional

1 extension request?

2 A I have not heard back.

3 Q Okay. Now, Mr. Skow, you testified that Westoil Marine
4 Services no longer services the Glencore contract. Remember
5 that?

6 A Yes.

7 Q I want to direct your attention to late October 2020,
8 early November 2020. Do you recall the topic of the Glencore
9 contract being raised by Westoil management?

10 A Yes.

11 Q When was the first time the Glencore contract came up
12 during discussions with Westoil management?

13 JUDGE SANDRON: You know, to which you were privy. In
14 other words, to --

15 A I rec -- I received a phone call from Westoil management,
16 Brian Vartan. He informed me --

17 JUDGE SANDRON: All right. Bef -- before you go on, do --
18 do we have some of this -- do we have some of this in the
19 record earlier or not? You know, I know we've had a lot of
20 testimony. And maybe not through this witness, but do we
21 have --

22 MR. HILGENFELD: I --

23 JUDGE SANDRON: -- that in record through other witnesses,
24 what -- what occurred in the notice to -- or -- or the
25 discussions?

1 MS. YASSERI: Well, Your Honor --

2 MR. HILGENFELD: Well, I --

3 MS. YASSERI: -- we have testimony from Mr. Vartan about
4 that phone call. But it's important to also get Mr. Skow's
5 recollection of that phone call.

6 JUDGE SANDRON: Well, what I mean, but on the issue of
7 what was going on with the -- with the negotiations with
8 Glencore?

9 MR. HILGENFELD: I -- I thi -- I believe General Counsel's
10 going on a separate question --

11 JUDGE SANDRON: All right.

12 MR. HILGENFELD: -- it's not the negotiation --

13 JUDGE SANDRON: All right. Go ahead.

14 MR. HILGENFELD: -- of Glencore but the conversations from
15 the IBM/Westoil.

16 JUDGE SANDRON: Okay. Well, I didn't --

17 MS. YASSERI: Correct.

18 JUDGE SANDRON: No, I wondered if -- if the situation
19 between Westoil and Glencore was already in the record through
20 other witnesses about what was happening in that time frame.
21 But if -- if there's any question, why don't you go ahead, to
22 have it in the record.

23 MS. YASSERI: Thank you. Thank you, Your Honor.

24 Q BY MS. YASSERI: Mr. Skow, you were telling us about the
25 phone call that you had received from Mr. Vartan?

1 A Yes. He was --

2 JUDGE SANDRON: All right. Before you -- before you go
3 on, do you remember, as best as you can, the date that -- that
4 you --

5 THE WITNESS: I --

6 JUDGE SANDRON: -- received the call?

7 THE WITNESS: I don't recall the date.

8 JUDGE SANDRON: And -- and then, do you remember the
9 month, well, the approximate month?

10 THE WITNESS: I believe it was early November.

11 JUDGE SANDRON: Okay. And do -- do you -- do you recall,
12 if you can, what time of day he called you? If you can.

13 THE WITNESS: No. No, I don't.

14 JUDGE SANDRON: All right.

15 THE WITNESS: I don't recall that.

16 JUDGE SANDRON: And --

17 THE WITNESS: I re -- I recall a phone call.

18 JUDGE SANDRON: All right. And do you remember how he
19 started the phone call?

20 THE WITNESS: He was trying to get a meeting with -- with
21 the IBU, because he had told me that -- that Centerline was
22 requiring all its subsidiaries to submit bids for all the oil
23 contracts that were expiring at the end of the year. And that
24 he wou -- that he had -- he had put in a bid alr -- a bid
25 already, and that bid was rejected. So the reason why they

1 were calling for the meeting is they want to see if the IBU
2 could get together with them to help them with the -- with the
3 issues that they had going on with the crews and that to see if
4 we could help them get a more competitive bid.

5 JUDGE SANDRON: Okay. And -- an -- and he said all of
6 that?

7 THE WITNESS: To -- to that effect, sir.

8 JUDGE SANDRON: And -- and di -- did you respond to him?

9 THE WITNESS: Yes, I -- I agreed to set up a meeting
10 for --

11 Q BY MS. YASSERI: And at the time, Mr. Skow, when Mr.
12 Vartan called you in early November of 2020, do you know what
13 his position was at Westoil?

14 A He's a barge operations manager.

15 Q Okay. And how did the phone call end with Mr. Vartan that
16 day?

17 A With the understanding that I was going to get back to him
18 with a -- with a date or dates to meet.

19 Q And how long did that phone call last?

20 A I -- I don't recall how long. It was not very long.

21 Q Do you recall anything else from this phone conversation
22 with Mr. Vartan?

23 A No, I don't recall.

24 Q Did the topic of the IBU elections come up at all during
25 this phone conversation?

1 A No.

2 Q Now, prior to this phone call with Mr. Vartan in early
3 November 2020, had he or anyone else from Westoil, Centerline,
4 and/or Harley Marine Financing told you that the Glencore
5 contract was being put up for bid among Centerline
6 subsidiaries?

7 A I don't recall.

8 Q Mr. Skow, when did you first learn that the -- well, let
9 me -- I think I'll just take it back. When did you first learn
10 that the Glencore work that Westoil had been performing would
11 be put up for bid among Centerline subsidiaries?

12 A That phone call with Brian Vartan.

13 Q Now, prior to November of 2020, during the 11 years that
14 you had been serving as regional director for the IBU, had you
15 seen Centerline request internal bids from its subsidiaries to
16 perform work?

17 A No, I haven't.

18 Q And to your knowledge, Mr. Skow, had the Glencore contract
19 ever been put up for bid among Centerline subsidiaries prior to
20 2020?

21 A I've never been aware of it.

22 Q Now, do you know who was responsible for issuing the
23 request for an internal bid for work that covered work for
24 Glencore?

25 A My understanding, it was Jennifer Beckman.



1 Q And how do you know that?

2 A From the informational demands that I received on February
3 17th, 2021.

4 JUDGE SANDRON: Are you saying responses to requests you
5 made for information?

6 THE WITNESS: Yes, sir.

7 Q BY MS. YASSERI: And what's your understanding of Ms.
8 Beckman's position?

9 A A sales and chartering manager.

10 Q Of which entity?

11 A Centerline Logistics.

12 Q And do you know where Ms. Beckman's office is located?

13 A Yes. On 1610 Barracuda Street on Terminal Island at
14 LA301. Basically, her office is -- she has a desk next to Mr.
15 Vartan.

16 Q Did you have it -- did you ever have any conversations
17 with Ms. Beckman regarding Westoil's bid submissions for work
18 that covered work for Glencore?

19 A No, I have not.

20 Q Now, prior to 2021, how long had Westoil been servicing
21 Glencore, to your knowledge?

22 A They'd been servicing Glencore way back when it was named
23 Chemoil Corporation. When I came working for the company, back
24 in 1991, they were -- they were servicing Glencore all the way
25 back then. My understanding was that they had been servicing

1 it since about 1990.

2 JUDGE SANDRON: But -- but you recall at least going back
3 to 1991?

4 THE WITNESS: Yes, sir.

5 Q BY MS. YASSERI: Now, Mr. Skow, do you know what entity is
6 currently performing work for Glencore in the L.A. and Long
7 Beach Harbors?

8 A Yes.

9 Q Which -- which company is that?

10 A It's Leo Marine.

11 Q Now, after your call with Mr. Vartan in early November of
12 2020, did the IBU and Westoil Marine Services have any meetings
13 regarding the Glencore contract?

14 A I don't recall.

15 Q During your phone -- you testified that during your phone
16 call with Mr. Vartan there was going to be a meeting set up.
17 You were going to get back to him with dates; is that right?

18 A Yes.

19 Q Did you end up engaging in a meeting shortly thereafter?

20 A Yes, we did.

21 Q When was that?

22 A It was November 6, 2020.

23 Q And where did this meeting take place?

24 A It took place by Zoom.

25 Q Do you recall the time of the meeting?



1 A It was early in the morning.

2 Q And who was present on behalf of the IBU at this meeting?

3 A It was myself, National President Marina Secchitano,
4 job -- I believe all my job stewards were there for this
5 meeting.

6 Q And can you name them?

7 A Yes. It was Enrique Gomez, Nolan Padilla, and Mike
8 Zuanich.

9 Q And were these job stewards all Westoil employees at the
10 time?

11 A Yes.

12 JUDGE SANDRON: I think we have all those spellings
13 already, don't we?

14 MS. YASSERI: Yes. Yes, sir.

15 Q BY MS. YASSERI: And who was present on behalf of Westoil
16 Marine Services at this meeting?

17 A It was Doug Houghton and Brian Vartan.

18 Q And what was your understanding of Mr. Houghton's position
19 at the time?

20 A He is -- he was the senior vice president of West Coast
21 operations for Centerline Logistics.

22 JUDGE SANDRON: And do you recall if he identified himself
23 as such when you had the -- the meeting? If you remember.

24 THE WITNESS: No. No, he -- he didn't. He -- yeah, he
25 didn't identify his title.

1 JUDGE SANDRON: All right.

2 THE WITNESS: No, sir.

3 JUDGE SANDRON: Although --

4 THE WITNESS: Yeah. We just all know him, Doug.

5 JUDGE SANDRON: All right. Well, I don't think there'll
6 be any dispute over titles, most likely. Correct?

7 MR. HILGENFELD: Not if that's the title they're using.
8 There's no dispute over that.

9 THE WITNESS: I think he just got a promotion around then,
10 if I remember right.

11 Q BY MS. YASSERI: How long have you known Mr. Houghton, Mr.
12 Skow?

13 A I've known Mr. Houghton since the early 2000s, when he
14 first came working for wa -- Westoil Marine.

15 Q Okay. Now, going back to that meeting on November 6,
16 2020, as best as you can recall, who said what?

17 A Okay. Doug was -- I believe he was laying the foundation
18 for Brian. He told us that --

19 JUDGE SANDRON: All right, yeah. I think it's better if
20 you, you know, don't summarize it but just as best as you can
21 recall, you know, who said what.

22 THE WITNESS: Okay. Sorry.

23 JUDGE SANDRON: That's all right.

24 A Doug's -- Doug said that -- that Vane Brothers, Sause --
25 Sause Brothers and Kirby -- all had equipment coming off

1 charter and that it was going to have an effect on them being
2 able to get the oil contracts that were expiring at the end of
3 the year. He also said that COVID-19 and the dying black oil
4 market was also going to take effect. And that the oil
5 companies were going to take advantage of it and try to drive
6 the rates down. He wanted -- he -- he told us that -- that
7 Centerline was requiring these RFPs from all its subsidiaries
8 and that Brian and Matt were going to have one more chance to
9 submit another bid. And he wanted us to get together and get
10 with Brian to help him come up with a competitive bid, if we
11 were willing to do it.

12 Q BY MS. YASSERI: Did you speak up at all during this
13 meeting?

14 JUDGE SANDRON: Would you remember -- did -- did you
15 respond at all to that?

16 THE WITNESS: No. I didn't say a whole lot in the
17 meeting. I did a lot of listening and -- and tried to take
18 notes because I felt it was very important to hear Mr. Houghton
19 out.

20 JUDGE SANDRON: Did -- did Mr. Houghton say anything?

21 THE WITNESS: He -- Mr. Houghton also said that they had a
22 \$500,000,000 bond also that Matt Godden and the board would
23 have to -- they would do what they needed to do to keep that
24 equipment running because they had that bond. I do remember
25 that.

1 JUDGE SANDRON: Do you remember either of them saying
2 anything else at -- at this meeting? And you can think for a
3 minute and then let us know.

4 THE WITNESS: That's all I kind of recall.

5 JUDGE SANDRON: All right.

6 THE WITNESS: Yeah. (Indiscernible).

7 JUDGE SANDRON: Did you say anything else that you
8 remember?

9 THE WITNESS: Yes. I said, well, this is perfect timing.

10 Q BY MS. YASSERI: What -- what did you mean by that, Mr.
11 Skow?

12 A Well, what I meant by that -- we were right in the middle
13 of Union elections going on and when these type of situations
14 come up, in my experience, it gets the members to panic and get
15 in fear. And there was going to be a lot of -- a lot of
16 concerns going on because people were going to be concerned
17 about their jobs and asking a lot of questions, and it was
18 concerning.

19 JUDGE SANDRON: Do you recall how the meeting ended?

20 THE WITNESS: Yes, I do. I -- we entered -- we entered
21 the meeting with the understanding that we were going to get
22 together with Brian to hear -- hear their issues and their --
23 their issues of why they weren't able to put in an amended --
24 why their -- it was rejected, I guess.

25 Q BY MS. YASSERI: I just want to go back. Who did you make

1 that comment to during the meeting about perfect timing?

2 A To Mr. Houghton.

3 Q And did Mr. Houghton respond once -- once you made that
4 comment?

5 A I believe he did. I don't recall what he said.

6 Q Now, prior to this meeting, Mr. Skow, had you discussed
7 the IBU elections with either Mr. Houghton or any manager at
8 Westoil and/or Centerline?

9 A I don't recall.

10 Q You also made a reference to RFPs. What -- what's your
11 understanding of -- what is -- what's an RFP?

12 A I believe it's like a request for bid. It should be RFB.

13 Q At this meeting, Mr. Skow, do you recall any discussion
14 regarding the Glencore contract?

15 JUDGE SANDRON: All right. Well, I think you -- you need
16 to exhaust his recollection first. And then if you want to get
17 a little more focused you can.

18 MS. YASSERI: Understood.

19 Q BY MS. YASSERI: Mr. Skow, do you recall anything else
20 from this meeting on November 6, 2020?

21 A Yes. Mr. Houghton said that all oil contracts were coming
22 expired at the end of the year.

23 Q Do you recall if there was anything specifically discussed
24 with respect to the Glencore contract?

25 JUDGE SANDRON: All right. Again, I guess, if he

1 remembers something then -- then you have to --

2 MS. YASSERI: Okay.

3 JUDGE SANDRON: -- still say anything else.

4 MS. YASSERI: Okay.

5 JUDGE SANDRON: Because he.

6 Q BY MS. YASSERI: What do you recall saying next, Mr. Skow,
7 after?

8 JUDGE SANDRON: Realizing you have to try to piece
9 together, you know, as best as you can, what was said, but
10 do -- do you recall what -- what was said after that statement?

11 THE WITNESS: Well, at the end -- I know I made that
12 comment. And then the understanding was we were supposed to
13 get together with Brian to schedule a meeting and hear out his
14 concerns.

15 JUDGE SANDRON: All right, so -- so that -- that was
16 agreed to?

17 THE WITNESS: Yes.

18 Q BY MS. YASSERI: Mr. Skow, at the time of this meeting on
19 November 6, 2020, had you seen any bids that Westoil had
20 submitted?

21 A No.

22 Q Do you recall anything else from this meeting, Mr. Skow,
23 on November 6, 2020?

24 JUDGE SANDRON: Think for a moment, and then if -- if you
25 recall anything else you can tell us.

1 A I -- I don't.

2 Q BY MS. YASSERI: Do you recall a discussion regarding
3 Glencore seeking a reduction from Centerline?

4 A No, I don't recall.

5 Q How -- how long was this meeting, Mr. Skow?

6 A It was about a 40-minute meeting.

7 Q Did you take notes at this meeting?

8 A Yes.

9 Q Mr. Skow, I'm showing you a document that's been marked
10 for identification as General Counsel's Exhibit 158. Do you
11 recognize this document?

12 A Yes.

13 Q And what is it?

14 A It's meeting notes from the November 6, 2020 meeting.

15 Q Did you take these notes while you were present at the
16 meeting on November 6?

17 A Yes.

18 Q I want to direct your attention to the top of the page.
19 Sort of a quarter way -- quarter way down there's a reference
20 to clean room process. Do you see that?

21 A Yes.

22 Q What did you mean by that?

23 A That's something Mr. Houghton said in the beginning of the
24 meeting.

25 Q And what was your understanding of what Mr. Houghton said

1 regarding that?

2 A When Doug was stating that him and Kelly could not be a
3 part of the process because they manage other companies. I
4 guess he said they wanted -- he made a comment about a clean
5 room process. So how I took that that they didn't want to be a
6 part of this process -- that they were trying to stay out of
7 it.

8 Q I want to direct your attention towards the bottom of the
9 exhibit. There's a reference to BV. What -- what does that
10 stand for?

11 A That's Brian Vartan.

12 Q And you make a reference there to help with three non-
13 union companies, additional character, getting a foothold.
14 What was meant by that?

15 A When Brian spoke up in the meeting, he made a comment
16 about being -- there being three non-union entities --
17 companies -- in the harbor, along with additional characters
18 getting a foothold in the -- in the harbor.

19 JUDGE SANDRON: So -- just so we confirm -- and it's
20 probably self-explanatory, but -- so Doug -- when it says
21 "Doug" in the first paragraph, that was Mr. Houghton. And then
22 it says D, like, a dash, that was also Mr. Houghton?

23 THE WITNESS: Yes.

24 JUDGE SANDRON: And the BV is Brian Vartan?

25 THE WITNESS: Brian Vartan, yes, sir.

1 JUDGE SANDRON: And then -- okay, I think it's -- it's
2 clear who said what.

3 Q BY MS. YASSERI: Now, Mr. Skow -- well, I'm sorry.

4 MS. YASSERI: I'd like to move for the admission of GC
5 Exhibit 158 at this time.

6 JUDGE SANDRON: Mr. Hilgenfeld?

7 MR. HILGENFELD: Can we go off the record real quick, Your
8 Honor?

9 JUDGE SANDRON: Yes. Off the record.
10 (Off the record at 10:15 a.m.)

11 JUDGE SANDRON: There's been a discussion off the record
12 between Mr. Hilgenfeld and Ms. Derry over whether the
13 Respondent's subpoena duces tecum issued on the IBU should have
14 encompassed this particular document. The parties will further
15 discuss that after reviewing the subpoena and the IBU's
16 response thereto. I understand, Mr. Hilgenfeld, you have no
17 objection to the document?

18 MR. HILGENFELD: I do not, Your Honor.

19 JUDGE SANDRON: It is received.

20 **(General Counsel Exhibit Number 158 Received into Evidence)**

21 **RESUMED DIRECT EXAMINATION**

22 Q BY MS. YASSERI: Now, Mr. Skow, after the meeting on
23 November 6, did you have any other meetings with Westoil and/or
24 Centerline representatives?

25 A Yes.

1 Q Okay. When was the next meeting?

2 A It was November 9th, 2020.

3 Q Where did it take place?

4 A That meeting took place over Zoom.

5 Q Do you remember the time?

6 A I do not.

7 Q Who represented the IBU at this meeting on November 9th?

8 A It was myself and my job stewards.

9 Q Do you remember which ones, specifically?

10 A It was Enrique Gomez, Nolan Padilla, and Mike Zuanick --
11 Zuanich.

12 Q Who represented Westoil at this meeting?

13 A It was just Brian Vartan.

14 Q And as best as you can recall, how did this meeting start?

15 A The meeting started with us talking about the oil
16 companies and how their -- how they operate. Basically, how
17 they operate with manning procedures. And then we went down
18 and we started talking about Brian's concerns with -- with
19 the -- with the membership in regards to the collective
20 bargaining agreement.

21 JUDGE SANDRON: Can you --

22 Q BY MS. YASSERI: What did Mr. --

23 JUDGE SANDRON: Right.

24 Q BY MS. YASSERI: -- Vartan say at this meeting?

25 JUDGE SANDRON: Yeah. Try to be as specific as you can --

1 THE WITNESS: All right. Okay.

2 JUDGE SANDRON: -- about what he said.

3 THE WITNESS: Brian mentioned crewing, overtime, double-
4 time, and he mentioned supplemental schedules.

5 Q BY MS. YASSERI: Okay. So let's break that down. What do
6 you recall Mr. Vartan say regarding crewing?

7 A That he was having a hard time getting -- in regards to
8 the tugboats -- getting crews to come in to work nights and
9 weekends.

10 Q And what do you recall Mr. Vartan --

11 MS. YASSERI: My apologies, Your Honor. I believe that's
12 our reception --

13 JUDGE SANDRON: I see.

14 MS. YASSERI: -- ringer.

15 MR. HILGENFELD: Oh.

16 JUDGE SANDRON: May -- maybe we should ask Mr. -- he
17 addressed all these concerns, like, as part of something
18 together or did he address them separately? In other words,
19 did -- did he -- did he say, like, these factors all together
20 or did he --

21 THE WITNESS: He --

22 JUDGE SANDRON: -- separate each one one-by-one?

23 THE WITNESS: At first, it was all together. And then I
24 took them and we broke them down --

25 JUDGE SANDRON: I see.

1 THE WITNESS: -- and discussed them.

2 JUDGE SANDRON: And -- and he raised them all. In -- in
3 what context did he raise all these issues?

4 THE WITNESS: Yes. He -- he put it all out there at one
5 time.

6 JUDGE SANDRON: And what did he -- he -- and -- and in
7 what context did he mention all these issues? If you recall if
8 he said what -- what he was looking at when he raised these
9 issues?

10 THE WITNESS: Well, I believe I asked him the question,
11 what are your concerns? And he stated --

12 JUDGE SANDRON: Concerns about what?

13 THE WITNESS: About -- the concerns about the issues at
14 work currently that were going on. Because I think that was
15 part of the problem was that they were trying to address the
16 current issues that they had right then that was kind of
17 keeping them from trying to get a competitive bid.

18 JUDGE SANDRON: I see. Okay.

19 Q BY MS. YASSERI: And I believe, Mr. Skow, you previously
20 testified about what areas that were identified by Mr.
21 Vartan -- overtime, double-time, crew changes, and supplemental
22 schedules?

23 A Yes. And I believe it was crewing also.

24 Q Yes, which we talked about.

25 A Yes.



1 Q What -- what did Mr. Vartan say with respect to the topic
2 of overtime?

3 A That -- that issue had a play into -- he wasn't able to
4 get crews to come in, that the engineers were holding out for
5 overtime, which -- and sometimes he couldn't even get them in
6 for overtime. He would have to call mandatory double-time to
7 get them to come in. And this was on the nights and weekends,
8 as I explained earlier.

9 Q And what about the topic of supplemental schedules?
10 What -- what do you recall Mr. Vartan saying regarding that?

11 A Brian said that the supplementals -- we had a
12 disagreement. Basically, the company felt that they could put
13 supplementals on without being at standard crewing levels,
14 which I -- I didn't agree with that. I think --

15 JUDGE SANDRON: As best as you can remember.

16 THE WITNESS: Yeah.

17 JUDGE SANDRON: What did you tell him? You know, how did
18 you say you disagreed?

19 THE WITNESS: I told him that we talked about this during
20 bargaining, and we -- we tried to work that issue out and we
21 couldn't get it worked out. So this is where we're at, so
22 let's sit down and figure it out. And --

23 JUDGE SANDRON: Did -- did he respond to that, if you
24 recall?

25 THE WITNESS: I -- I don't recall.



1 JUDGE SANDRON: All right.

2 Q BY MS. YASSERI: Let me just take a step back. What
3 exactly is a supplemental schedule?

4 A A supplemental schedule in the Westoil collective
5 bargaining agreement is a -- it's a schedule that's in
6 addition -- it's an additional schedule. And the only time --
7 the Union's position is, the only time you can put that
8 schedule on is when you're at standard crewing levels.

9 Q And at that time in November of 2020 was Westoil operating
10 at standard crewing levels, if you know?

11 A No, they weren't.

12 Q Now, are there any differences between a supplemental
13 schedule and a regular schedule?

14 A Well, the -- how -- the best way I can explain it is that
15 you have a standard crewing level. When -- when work
16 conditions are normal -- normal workload, you have a standard
17 crewing level, which is 14 tankermen, 10 engineers, and 2
18 deckhands. A supplemental schedule, according to the Union's
19 position here, is that when you have more work than the normal
20 workload, the company can put on supplemental schedules in any
21 classification they so choose. That's the only time we feel
22 that they can do that. That's kind of the -- the difference in
23 the schedules.

24 Q Are there any differences between employees who work under
25 a regular schedule versus a supplemental schedule?

1 A Well, the only difference is that -- that I can think
2 of -- is that under a -- if you're on a standard crewing -- is
3 that you're afforded a, I believe, a ten-day layoff notice.
4 And under a supplemental, it's basically, you're kind of
5 working month-to-month. And I believe that one has a 24-hour
6 layoff notice. So like, at the end of the month, they can let
7 you know within 24 hours you're laid off. That's the only
8 really difference that I can distinguish.

9 Q Now -- and -- and employees that work under the
10 supplemental schedule, are they considered regular employees or
11 temporary?

12 A They could be regular employees.

13 Q Now, Mr. Skow, do you know what, if any, impact
14 supplemental schedules would have on labor costs, including
15 overtime?

16 A Well, in this case here -- if I may explain? I feel I
17 have to put some explanation into this. In this case here, the
18 company, I believe, at this time, had, like, 12 tankermen on
19 and 10 engineers and no deckhands. So they wanted to put more
20 engineers on because that was their problem, but they couldn't
21 because they weren't at a standard crewing level. So in order
22 to do that they would have to be at the standard crewing
23 levels. And I guess you're going to ask me questions more
24 about that later on. I could further explain.

25 Q I -- I want to go back with respect to the impact of

1 supplemental schedules on labor costs and overtime. Would
2 there be any impact?

3 A Yes, it could help.

4 Q How so?

5 A By adding on those supplemental schedules -- instead of
6 having to call in a casual workforce who may hold out for
7 overtime or mandatory double-time, putting those people on a
8 schedule would obligate them to come in to work so they
9 wouldn't have to -- that would help them with their crewing
10 issue, for one. Two, it would cut down on some overtime. And
11 three, it probably would cut down on a lot of double-time.

12 Q Let's break that down. Can you explain how it could cut
13 down some of the overtime?

14 A Because on those type of schedules the problem from
15 what -- what I was hearing -- was that Brian said that the
16 engineers were holding out for overtime and possibly they
17 wouldn't even take the overtime. They'd wait for a double-time
18 callout. That would -- by them being on a schedule they'd be
19 paid a basic rate of eight straight time hours to four overtime
20 hours. So you'll have some overtime that'd be cut out instead
21 of them --

22 JUDGE SANDRON: I see.

23 A -- getting paid the full overtime. If that makes sense.
24 I know this is kind of complicated in a way, if you don't
25 understand the agreement.

1 Q BY MS. YASSERI: So let me -- let me just take a step
2 back. So if a -- if a casual employee accepted a -- a callout
3 for overtime would that mean that they would be receiving
4 overtime wages for every hour worked that day?

5 A Yes.

6 Q But if that work were given to a scheduled employee how
7 would that affect their rate of pay?

8 A They would be getting the, you know, the eight hours of
9 straight time and four hours of overtime.

10 Q Now, just -- just to clarify -- and forgive me if you've
11 already said this -- but at -- at that time in November of 2020
12 was Westoil operating at standard crewing level?

13 A No, they weren't. My understanding was they were
14 operating, as I stated, with 12 tankermen and 10 engineers at
15 the time.

16 Q And what was the standard levels at that time? What was
17 supposed to be the standard level?

18 A Well, if it was normal working conditions -- normal
19 workloads, they should've been at 14 tankermen, 10 deckhand --
20 10 engineers and 2 deckhands.

21 Q I -- I want to sort of take you back again to that meeting
22 with Mr. Vartan on November 9th where you had just testified
23 that Mr. Vartan had laid out these concerns. Do you recall
24 speaking up at all in response once Mr. Vartan identified these
25 areas?

1 A Yes. I -- I offered up that these issues could be taken
2 care of with an MOU, if he was interested.

3 Q And what was Mr. Vartan's response once you stated that?

4 A What I recall, he said that an MOU would go a long way.
5 That I would put two -- two engineers on.

6 JUDGE SANDRON: All right. Did -- did you reach any kind
7 of agreement on an MOU at that meeting?

8 THE WITNESS: No. He was willing to look at it.

9 JUDGE SANDRON: Oh, that was your proposal?

10 THE WITNESS: Yes.

11 JUDGE SANDRON: And he -- did he say he would look at it?

12 THE WITNESS: Yes. He said he would look at it and
13 consider it.

14 Q BY MS. YASSERI: And do you recall -- is there anything
15 else that you recall from this meeting, Mr. Skow?

16 A Yes. We even talked about training some of our deckhands
17 as engineers. And Mr. Vartan was very resistant to training,
18 even though we do have paid training in the agreement --

19 JUDGE SANDRON: Wait. I -- I think it'd be better if you
20 just say what -- what --

21 THE WITNESS: Oh.

22 JUDGE SANDRON: -- you were proposing and -- and --

23 THE WITNESS: Yes. He was resistant to it.

24 JUDGE SANDRON: Well, what did he say; do you remember?
25 Well, what -- what did you propose?

1 THE WITNESS: Well, I didn't propose it.

2 JUDGE SANDRON: Or the Union?

3 THE WITNESS: One of the job stewards proposed it.

4 JUDGE SANDRON: All right. And what -- what was the
5 proposal?

6 THE WITNESS: That they would train -- consider training
7 the deckhands as engineers so they could put them on the casual
8 list and -- and use them as -- as an extra source of crewmen.

9 JUDGE SANDRON: And -- and what was the response to that?

10 THE WITNESS: He was resistant to it.

11 JUDGE SANDRON: Well, what did he say, if you can
12 remember? Yeah --

13 THE WITNESS: He made a -- oh, man. I wish -- well, I
14 don't recall --

15 JUDGE SANDRON: Well, that's all right. It's --

16 THE WITNESS: -- exactly what he said --

17 JUDGE SANDRON: All right.

18 THE WITNESS: -- but --

19 JUDGE SANDRON: Did he -- can you give some way how he put
20 it or?

21 THE WITNESS: He said he was trying to cut costs not add
22 more costs, I think it was to that effect.

23 JUDGE SANDRON: All right.

24 Q BY MS. YASSERI: Do you recall anything else being
25 discussed at this meeting on the 9th of November?

1 A That we were -- that he had until November 30th because he
2 had to submit another bid. And we told him that we would -- we
3 would have something back to him in the form of an MOU for him
4 to consider.

5 Q And what did he say in response once you said that, as
6 best as you can recall?

7 A I don't recall exactly what he said, but he seemed kind of
8 relieved, happy that we were going to do that.

9 Q Okay --

10 JUDGE SANDRON: Well, do you -- do you remember anything
11 he said?

12 THE WITNESS: No, I don't.

13 JUDGE SANDRON: Well, do you remember his gesture or
14 facial expression?

15 THE WITNESS: It was kind of hard to see because it was on
16 Zoom.

17 JUDGE SANDRON: Well, that's true.

18 THE WITNESS: -- but --

19 JUDGE SANDRON: Well, all right.

20 THE WITNESS: -- I could take it as in a way he was kind
21 of relieved because we were working with them.

22 JUDGE SANDRON: All right.

23 THE WITNESS: He seemed kind of relieved to me.

24 JUDGE SANDRON: But you don't -- you don't -- you don't
25 remember on what you base that?

1 THE WITNESS: No, sir.

2 JUDGE SANDRON: All right. And were -- were you talking
3 about one MOU or were you talking about different MOUs?

4 THE WITNESS: One MOU.

5 JUDGE SANDRON: That would cover all these subjects?

6 THE WITNESS: All the subjects that he had brought up to
7 us with the exception of the -- the crew changes. We were
8 supposed to go back and talk to our crews about the crew --

9 JUDGE SANDRON: I see.

10 THE WITNESS: -- changes.

11 JUDGE SANDRON: So in other words, your proposal dealt
12 with the other areas --

13 THE WITNESS: Yes.

14 JUDGE SANDRON: -- except that one?

15 THE WITNESS: Yes, sir. It -- it had to do deal with the
16 crewing, the overtime, double-time, and the supplementals.

17 JUDGE SANDRON: And -- and the meeting -- is that how the
18 meeting ended -- that you were going to get a propose --
19 proposed MOU back to him?

20 THE WITNESS: Yes, sir.

21 Q BY MS. YASSERI: Mr. Skow, do you recall -- did you take
22 any notes at this meeting?

23 A Yes.

24 Q I'd like to show you, Mr. Skow, what's been marked for
25 identification as General Counsel's Exhibit 159. Do you

1 recognize this document?

2 A Yes.

3 Q And what is it?

4 A These are the meeting notes from that meeting.

5 Q On November 9th, 2020?

6 A Yes.

7 Q And did you take these notes while present at that
8 meeting?

9 A Yes.

10 Q Okay. I -- I want to direct your attention to page 2 of
11 the document. Sort of towards the middle of the page. It
12 states "discuss a MOU completive". What did you mean by that?

13 A Of -- like I said, I'm a very terrible speller.
14 Competitive.

15 Q And what did you mean by that reference in the notes?

16 A That we were going to try to make this MOU competitive.

17 Q And just a few lines down there's a reference to "not
18 asking for pay cuts but flexibility". What -- what did you
19 mean by that when that -- you wrote that?

20 A Brian was not asking for any pay cuts. But he was just
21 asking for flexibility on the supplementals.

22 JUDGE SANDRON: All right.

23 Q BY MS. YASSERI: Do you recall him saying that at the
24 meeting?

25 A Yes.

1 Q And I want to direct your attention to page 3 of that
2 exhibit. Towards the top you make a reference to safety
3 records; do you see that? And -- and then long-stand
4 relations.

5 A Yes.

6 Q What -- what did you mean by those references?

7 A We were in discussions about ways that we're looking to
8 retain the Glencore contract, and I remember making the
9 statement -- I said the company's got to consider our safety
10 record due -- due -- regards to oil spills, and our long -- our
11 longstanding relationship.

12 Q And what was -- to your knowledge -- what was Westoil's
13 safety rec -- record up through January of 2021?

14 MR. HILGENFELD: Objection. Foundation.

15 MS. YASSERI: I'm ask -- I asked him to his knowledge.

16 JUDGE SANDRON: All right. Then he -- see if he can lay a
17 proper foundation for it.

18 A In my time as the regional director, I was not made aware
19 of any spills, which is probably the biggest major thing an oil
20 comp -- you know, an oil transportation company could have. So
21 that right there I would consider the biggest -- the -- the
22 biggest thing that could happen to a company.

23 Q BY MS. YASSERI: And then if an oil spill were to take
24 place, would you be informed in your role as regional director?

25 A Oh, yes.

1 Q And how would you typically be informed of something like
2 that?

3 A I'd be getting a phone call from my job steward right away
4 and probably the company because they'd be disciplining -- or
5 looking into an investigation with -- that could lead to
6 discipline.

7 Q And was it your understanding that Westoil had an
8 excellent record up until that time -- January 2021?

9 JUDGE SANDRON: Well --

10 A Yes.

11 JUDGE SANDRON: All right.

12 Q BY MS. YASSERI: And can you -- just for clarity about the
13 industry -- can you sort of explain to us why the oil spill
14 would be such a serious incident?

15 A Because it could put a company out of business and the
16 person -- the tankerman -- who could be working that job could
17 actually go to jail if he was negligent -- could be fined, go
18 to jail. And repercussions, I mean, could be bad. Could be
19 devastating to a company.

20 MS. YASSERI: I'd like to move for the admission of
21 General Counsel's Exhibit 159 at this time.

22 JUDGE SANDRON: Well, I'm not sure we have enough
23 information about what some of these notations are. So maybe
24 we -- we need to -- to cover that. Where it says, "discussion
25 on oil contracts", do you -- was that what Mr. Vartan said or

1 do -- do you recall, is that how he opened the -- the meeting?

2 THE WITNESS: Yes. We opened it -- we had questions --

3 JUDGE SANDRON: The Union opened it with that?

4 THE WITNESS: Yes. All right.

5 JUDGE SANDRON: And who -- who says Minerva did not know?

6 Do you recall who -- what that was in ref -- who said that or?

7 THE WITNESS: That -- that would be some -- maybe a
8 question we asked Mr. Vartan.

9 JUDGE SANDRON: And then where it says "RFP on Friday
10 outside of acceptable range". Do you recall who?

11 THE WITNESS: That came from Mr. Vartan.

12 JUDGE SANDRON: And then "will not share other companies",
13 do you recall?

14 THE WITNESS: Yes. That came from Mr. Vartan, because we
15 asked him if they knew what -- what the -- what the other
16 companies were bidding.

17 JUDGE SANDRON: And if -- if we go down that page, if --
18 if you can, can you tell us if -- if any of those were related
19 to statements that you or your representatives made rather than
20 Mr. Vartan, or were those basically all his comments? And if
21 there's something that you see that -- that was not by him, you
22 know, tell us. Just on the first page.

23 THE WITNESS: Okay. These are all -- all his comments on
24 this first page.

25 JUDGE SANDRON: And then we go to the second page. And if

1 you could tell us the same thing, if there's anything that you
2 see that was a -- a comment by you or your stewards. If you --
3 if you could -- I think you had mentioned engineers. That
4 might've been --

5 THE WITNESS: Yep.

6 JUDGE SANDRON: -- what you brought up, but can you see --
7 up -- up to that point where -- where it ends "dispatchers and
8 above" was that all his comments, that you recall?

9 THE WITNESS: Well, the "discuss an MOU" was --

10 JUDGE SANDRON: Where is that? Which -- which line?

11 THE WITNESS: That's kind of in the middle.

12 JUDGE SANDRON: Okay. And that was you --

13 THE WITNESS: That was me.

14 JUDGE SANDRON: -- said that. And then where it says
15 "Matt Godden makes decision". That was --

16 THE WITNESS: That was a question, I believe, one of the
17 stewards asked. They wanted to know who makes decision and
18 gets these contracts.

19 JUDGE SANDRON: And -- and was that his answer?

20 THE WITNESS: Yes.

21 JUDGE SANDRON: And then he -- not asking for pay cuts but
22 flexibility, that was him?

23 THE WITNESS: Yes.

24 JUDGE SANDRON: And "needs guys to take the work"?

25 THE WITNESS: That's him.

1 JUDGE SANDRON: And then the "training more engineers",
2 that was you?

3 THE WITNESS: Yes. That was a steward that asked that.

4 JUDGE SANDRON: A steward. And where it says "cross-
5 training tankermen"?

6 THE WITNESS: That was me.

7 JUDGE SANDRON: And then the "MOU is back" from you?

8 THE WITNESS: Yes. And then Brian said, if he got an
9 MOU -- if they got an MOU, he'd be willing to put two engineers
10 on it.

11 JUDGE SANDRON: And "offer Union hall as backup"; was that
12 you?

13 THE WITNESS: That was me. As long -- and as "add members
14 to the probationary list".

15 JUDGE SANDRON: And "agreement with MOU, work with
16 dispatcher"? If you remember.

17 THE WITNESS: That one, I'm not sure. I believe it was --
18 we asked him to work with his dispatchers if we came up with
19 agreement with an MOU. I think there was some conversation on
20 that.

21 JUDGE SANDRON: And then "this would close"? You know, if
22 you don't remember this --

23 THE WITNESS: I -- I don't remember --

24 JUDGE SANDRON: -- specific context --

25 THE WITNESS: -- that one.

1 JUDGE SANDRON: -- that -- that's fine. It's just what
2 you remember. Then "two engineers would be great"; do you
3 recall --

4 THE WITNESS: That was Brian.

5 JUDGE SANDRON: And then "overtime moving forward crew
6 change"?

7 THE WITNESS: I remember we told Brian we would talk to
8 our crews about the crew changing. We asked if he would give
9 us the names of the people who are doing it so we could talk to
10 them directly, but he didn't want to make a -- he didn't want
11 to single people out.

12 JUDGE SANDRON: And -- and what about the last sentence
13 "drop date submitted last week, November 30"?

14 THE WITNESS: That was when the bid was supposed to be
15 submitted by.

16 JUDGE SANDRON: Oh, and -- and he said that?

17 THE WITNESS: Yes.

18 JUDGE SANDRON: And the last page. I'll skip some of just
19 the words that don't have any elaboration. But going -- "their
20 safety records longstanding" --

21 THE WITNESS: That was me.

22 JUDGE SANDRON: And the safety records -- do you -- do you
23 recall what you said?

24 THE WITNESS: Yeah. I said that -- that Glencore should
25 consider our safety record. I told Brian to make sure they

1 consider our safety record and our longstanding relationship
2 with -- with Glencore.

3 JUDGE SANDRON: And -- and "this first experience with
4 RFP"?

5 THE WITNESS: Brian said that. He said that was his first
6 experience doing these RFPs.

7 MS. YASSERI: Your Honor, if I may. The rest of the
8 notes, I believe, refer to a -- a discussion between Mr. Skow
9 and Mr. Vartan on November 25th, which --

10 JUDGE SANDRON: Oh, I see --

11 MS. YASSERI: -- I'll -- I'll get to.

12 JUDGE SANDRON: -- where it cuts off.

13 THE WITNESS: Oh, yeah, yeah.

14 MR. HILGENFELD: Would this be a good time for a break?

15 MS. YASSERI: Yes, yes. If -- if -- if I could request
16 a -- Your Honor, if we could take our morning break at this
17 time?

18 MR. HILGENFELD: Please.

19 JUDGE SANDRON: All right. So before we -- we do that,
20 are you offering it for those meetings right now? Because he
21 hasn't really covered the November 25th yet?

22 MS. YASSERI: I can wait to offer it into evidence once --

23 JUDGE SANDRON: All right. Well, let's --

24 MS. YASSERI: -- we -- we talked -- once we cover that
25 meeting --

1 JUDGE SANDRON: All right.

2 MS. YASSERI: -- as well.

3 JUDGE SANDRON: So we can take a ten-minute recess.

4 MR. HILGENFELD: Thank you.

5 MS. YASSERI: Thank you.

6 JUDGE SANDRON: Off the record.

7 (Off the record at 10:49 a.m.)

8 **RESUMED DIRECT EXAMINATION**

9 Q BY MS. YASSERI: Mr. Skow, going back to the meeting on
10 November 9th, 2020, do you recall anything else being discussed
11 at this meeting?

12 A No.

13 Q So you -- you previously discussed about Mr. Vartan
14 identifying those four areas about crewing, supplemental
15 schedules, overtime and double-time. Was that the first time
16 that Mr. Vartan brought those issues up to the IBU after you'd
17 been informed that Westoil's bid had been rejected?

18 A He may have brought them up before. Those -- you know,
19 maybe not all those issues, but certain issues about not being
20 able to cover -- cover jobs prior to.

21 Q Was it the first time that he brought it up after
22 Westoil's bid had been rejected -- you'd been -- learned that
23 Westoil's bid had been rejected?

24 A Yes.

25 Q Now, Mr. Skow, do you know if the IBU bargaining unit

1 employees at Westoil were informed about the Glencore contract
2 being put up for bid?

3 JUDGE SANDRON: Well, I -- I -- I think you are getting
4 into -- you know, here, I think, we --we did have testimony, I
5 believe, didn't we, already, on that subject from employees?

6 MS. YASSERI: If I may just have a little bit of leeway,
7 Your Honor, just two questions --

8 JUDGE SANDRON: All right.

9 MS. YASSERI: -- on, if I may?

10 JUDGE SANDRON: Go ahead.

11 MS. YASSERI: Okay.

12 THE WITNESS: Could you repeat it; I'm sorry?

13 Q BY MS. YASSERI: Do you know if the IBU bargaining unit
14 employees at Westoil were informed about the Glencore contract
15 being put up for bid?

16 A Yes.

17 Q And how do you know?

18 A The job stewards went back and reported it back to them.

19 Q And do you know when that was?

20 A It was shortly after the -- after the meeting on November
21 6.

22 Q And do the job stewards regularly update the membership
23 regarding what's discussed between the IBU and Westoil
24 management?

25 A Yes.

1 MR. HILGENFELD: Objection. Vague.

2 JUDGE SANDRON: I -- I think it's a general question. We
3 would assume there's communication.

4 Q BY MS. YASSERI: Now, Mr. Skow, you testified that at the
5 meeting with Mr. Vartan on November 9th, 2020, he told you that
6 he'd be interested in seeing an MOU from the IBU?

7 A Yes.

8 Q Did the IBU end up drafting an MOU?

9 A Yes, we did.

10 Q Who, from the IBU was involved in drafting the IBU?

11 JUDGE SANDRON: Yeah, I'm not sure it matters who, you
12 know. Does it make a difference who drafted it if it was
13 presented to management? Does it -- does it matter who -- who
14 did it?

15 MS. YASSERI: This is just for clarity, Your Honor. I
16 think there were some questions during Mr. Vartan's testimony
17 when the document was presented --

18 JUDGE SANDRON: Oh, I see.

19 MS. YASSERI: -- so I was just trying to provide some
20 clarity for the record.

21 JUDGE SANDRON: All right. Go ahead.

22 A It was myself, Patrolman Mike Vera, Mike Zuanich, Nolan
23 Padilla, Enrique Gomez, and Cris Sogliuzzo.

24 JUDGE SANDRON: So -- so you and the stewards, basically?

25 THE WITNESS: Myself and the stewards, including my

1 patrolman.

2 Q BY MS. YASSERI: And how did you go about drafting it?

3 A We went back and forth over emails.

4 Q Mr. Skow, I'm showing you what's been already admitted
5 into evidence as General Counsel's Exhibit 33. It's an email
6 thread from November 23rd, 2020 to November 25th, 2020 with an
7 attachment referenced in the November 23rd, 2020 email from you
8 to Mr. Vartan, the attachment consisting of two pages. Do you
9 recognize this email thread and attachment?

10 A Yes, I do.

11 Q And pages 2 and 3 of this exhibit -- the MOU proposal
12 that's referenced as being attached to your email of November
13 23rd, 2020; is that the attachment?

14 A Yes.

15 Q I want to direct your attention to the second page of the
16 exhibit, to the actual MOU. Who made the cross outs on this
17 document?

18 A I believe it was Mike Vera.

19 JUDGE SANDRON: Are -- are all these -- these cross outs,
20 that was -- well, the changes that were in the doc -- in
21 this -- on this page -- those were made by -- proposals by the
22 Union to change what was in the contract?

23 THE WITNESS: Yes, sir.

24 JUDGE SANDRON: So for example, where it says "9.524" is
25 crossed out and "it's 72"; that -- that was the -- that was all



1 the Union's proposal?

2 THE WITNESS: Yes, sir.

3 JUDGE SANDRON: And where -- where it has "start times
4 apply to all employees"; that was added by the Union?

5 THE WITNESS: Yes.

6 JUDGE SANDRON: Okay.

7 Q BY MS. YASSERI: Mr. Skow, this MOU proposal -- was this
8 limited to crews for tugboats only or did it also apply to
9 barge crew?

10 A This was also -- a -- a few items in here were for barge
11 crews.

12 Q And which items are those?

13 A The starting -- all starting times, 30 -- number -- item
14 number 3 there, "start times shall apply to all employees
15 dispatched for crewing tank barges".

16 Q And then the -- what about with respect to the reference
17 in paragraph 1, with respect to the change to 12 tankermen from
18 the 14?

19 A Yes. That too.

20 Q Now, I want to sort of direct your attention to that first
21 paragraph. What was the IBU proposing there?

22 A Okay. Since the company at that current time was already
23 at 12 tankermen and 10 engineers and no deckhands on schedule,
24 we wanted -- we wanted -- we wanted to address the company with
25 some flexibility by -- by setting the standard crewing levels

1 at -- at that current level -- at 12 tankermen and 10 deckhands
2 (sic) -- where they were currently at. So that would've gave
3 them the flexibility to go ahead and -- and put the two
4 engineers that Brian was seeking on -- on a supplemental
5 schedule.

6 JUDGE SANDRON: All right. This is number 1?

7 THE WITNESS: Yes.

8 JUDGE SANDRON: Was it --

9 THE WITNESS: And in number 2, basically.

10 JUDGE SANDRON: Because I think it -- the way it reads, at
11 least, it looks like the deckhands are crossed out completely.
12 Just -- just on its face. Maybe you can explain that?

13 THE WITNESS: Yes. Because at that current time, they did
14 not have no deckhands on schedule. So we decided that to set
15 the standard crewing level right then and there at -- at the
16 current manning that they were currently at.

17 JUDGE SANDRON: So that was 12 tankermen and 10 engineers?

18 THE WITNESS: Correct.

19 Q BY MS. YASSERI: Mr. Skow, what impact, if any, would
20 removing the two tankermen from the full-time schedule have had
21 on labor costs?

22 A It would've had some effect on cost. What we were trying
23 to do was fix the issue with him having the flexibility to add
24 more supplementals on, which -- which was what he wanted.

25 JUDGE SANDRON: I see. So -- so -- so you -- so 1 and 2

1 go together --

2 THE WITNESS: Yes, sir.

3 JUDGE SANDRON: -- basically?

4 Q BY MS. YASSERI: Same question with respect to removing
5 the two deckhand positions entirely from the standard crewing
6 levels.

7 A For cost, it would help out some in cost, because when you
8 eliminate the two scheduled deckhands they now become a part of
9 the casual workforce. And casuals have a eight-hour guarantee.
10 So when you dispatch them out for work they're only guaranteed
11 eight hours of work. When they're on a supplemental schedule,
12 they're guaranteed an eight hours plus the four hours of
13 overtime. They're guaranteed a 12-hour shift. So they get the
14 eight and four.

15 Q And what about deckhands working under a regular schedule
16 in terms of guaranteed hours?

17 A As I stated, they -- they get a -- they get, basically,
18 eight -- eight straight hours of pay, and then they get four
19 hours of overtime on a schedule.

20 Q The -- now, this proposal that was made by the IBU in the
21 MOU regarding removing the two tankermen and the two deckhands,
22 did this address Westoil's concerns as expressed by Mr. Vartan
23 at the meeting on November 9th?

24 JUDGE SANDRON: Well, I think you -- maybe you need to
25 rephrase about what his intent was because you can't say that

1 it actually addressed his concern. That'd be something for him
2 to state. But -- but I think it's pretty clear that -- from --
3 from what the witness said already, that this was the Union's
4 attempt to respond to some of the questions he had raised about
5 cutting costs. I think that's clear. Maybe we should ask Mr.
6 Hilgenfeld without your necessarily agreeing to what the Union
7 was proposing. Would those measures have resulted in cost-
8 saving of some kind?

9 MR. HILGENFELD: No. Mr. Vartan testified to this.

10 JUDGE SANDRON: All right. I see. So there's a dispute
11 over whether --

12 MR. HILGENFELD: There is.

13 JUDGE SANDRON: -- those would've made a difference.

14 MR. HILGENFELD: Correct.

15 JUDGE SANDRON: All right.

16 Q BY MS. YASSERI: Mr. Skow, the proposal that was made by
17 the IBU in paragraph 1 regarding changing the standard crewing
18 level, was that intended to address Mr. Vartan's concerns as
19 expressed during the meeting on November 9th?

20 A Yes.

21 Q Now, I want to direct your attention to paragraph 2,
22 reference to supplemental scheduled employees. What did the
23 IBU propose with regard to supplemental scheduled employees?

24 A That they would be considered temporary assignments and
25 would not be subject to some provisions under 9.9(k). "We

1 propose, however, the last two qualified nonscheduled employees
2 in any classification, shall be obligated to accept that
3 supplemental scheduled assignment." So what we were trying to
4 do here is -- is to make it a temporary. And temporaries --
5 they don't have to take the schedule. But we put a -- we put a
6 clause in here that the last two nonscheduled casuals would
7 have to take it. They would have to cover the work. So the
8 last two bottom guys would be obligated. Otherwise, they'd
9 be -- they'd be gone. Basically, they'd be subject to a -- a
10 break in seniority.

11 Q And what impact, if any, would that requirement have had
12 on labor costs in making the last two bottom guys take the
13 schedule?

14 A I -- how -- how I can see that, it was more of a
15 flexibility because he wanted -- part of the problem was that
16 he could not get people to come in to cover the work. So our
17 thought behind this was if we make these two people obligated
18 to take it, they'd be obligated to come in and take the work.

19 Thus, I believe, that would -- you know, the complaint was
20 that casuals were holding out for overtime. If they were
21 holding out beyond overtime, then they would offer mandatory
22 double-time to come in to work. So that, there, could help
23 with that -- with that problem.

24 Q Okay. You made a reference that they would be gone,
25 because they broke seniority; what -- what did you mean by

1 that?

2 A Basically, even though these were temporary assignments,
3 and our members weren't obligated to take temporary
4 assignments, the -- by putting the last two on and making them
5 obligated, if they -- that means they couldn't turn it down.
6 If they did turn it down, then they'd be subject to -- I think
7 the intent was they'd be subject to breaking seniority, which
8 means they would lose their dispatch and be, basically,
9 terminated.

10 Q Can you explain for us how this proposed -- proposal and
11 this supplemental schedule -- if it would provide the company
12 more flexibility with respect to job classifications?

13 A Yes, because by giving them those two, qualified, non --
14 nonscheduled employees, they could put them in any
15 classification they chose. If they wanted to use them as
16 tankermen, they could put them in as a tankerman. If they
17 wanted to use them as an engineer, they could put them in as an
18 engineer -- or even a deckhand.

19 Q Now, Mr. Skow, at the time that you submitted this MOU on
20 behalf of the IBU, had Westoil provided you with the labor cost
21 figure related to its bid submission for -- for barge work that
22 included work for Glencore?

23 A No.

24 Q Had you received any costing information, including labor
25 cost information from Westoil related to its bid submissions?

1 A No.

2 Q Now, I want to direct your attention to the first page of
3 the exhibit.

4 JUDGE SANDRON: Right, now -- excuse me, before you --
5 before you get to that, Number 3 talks about this -- this --
6 well, actually, let me go up one. Where it says, "9.5: Change
7 in advance layoff notice"; did -- did that have any impact
8 on -- on the company's costs, that particular change?

9 THE WITNESS: No, sir. The company -- if they had a lack
10 of work, they can lay off. That didn't change at all.

11 JUDGE SANDRON: And what about this change in start time;
12 did that make any difference, as far as costs?

13 THE WITNESS: Well, that -- we wanted to address that,
14 because there was -- and this was kind of a -- a -- want from
15 us. The company had gotten away from a practice of assigning
16 start times at 0600 and 1800. They would -- they would go off
17 and assign work at -- for example, like, at 0900 or, like, at
18 2100, for the night side.

19 We wanted to get them back to doing what we always thought
20 the intent of the agreement was. If you called someone in for
21 work, it would be at 6:00, and 1800.

22 JUDGE SANDRON: I --

23 THE WITNESS: We -- we didn't think they would agree to
24 it, but --

25 JUDGE SANDRON: So --



1 THE WITNESS: -- we were trying to negotiate it.

2 JUDGE SANDRON: I see. So this is something that the
3 Union wanted, that was not in direct response to what he
4 wanted?

5 THE WITNESS: Yes, sir.

6 JUDGE SANDRON: And I think you -- you had mentioned page
7 1; you were going to ask him a question about a certain page?

8 MS. YASSERI: Thank you, Your Honor.

9 Q BY MS. YASSERI: I'd like to direct your attention, Mr.
10 Skow, to page 1 of the exhibit, towards the middle of the page,
11 to an email from Mr. Vartan to you, dated November 25th, 2020,
12 where he says, "John, this does not help us."

13 Was -- was this Mr. Vartan's response to the IBU's MOU?

14 A Yes.

15 Q Did Mr. Vartan provide a counterproposal to the IBU's
16 November 23rd, 2020 MOU, at the time of this November 25th,
17 2020 email?

18 A No.

19 Q Now, Mr. Skow, at the time of receiving Mr. Vartan's
20 November 25th email, were you aware if Westoil had already
21 submitted an amended bid to Centerline or Harley Marine
22 Financing, for work that included work for Glencore?

23 A I was not aware.

24 Q Did you later become aware that Westoil had submitted an
25 amended bid for the Glencore work?

1 A Yes, I was.

2 Q And how did you become aware?

3 A It was through those informational demands that we
4 received back in -- I believe it was February 17th, 2021.

5 Q Okay. And we're going to talk about that in a few
6 minutes.

7 Now, do you recall speaking to Mr. Vartan after receiving
8 this email from him on November 25th, 2020?

9 A Yes.

10 Q And how did you end up speaking to him?

11 A After I received this email, I waited a little bit -- till
12 it was normal work hours -- and I gave him a phone call.

13 Q Do you recall the time of that email -- I'm sorry, the
14 time of that phone call?

15 A It -- it had to be after 9:00. I don't -- I do not
16 practice calling people early. I wait for business hours.

17 Q And how did that conversation start; who spoke?

18 A I believe I did, because I had questions. I asked him,
19 what was wrong -- what was wrong with our proposal. I thought
20 we had addressed every one of his concerns.

21 And so we went through each one, and we talked about them.

22 Q Okay. So what do you recall -- which topic do you recall
23 bringing up first during that phone call?

24 JUDGE SANDRON: All right -- all right. Just -- you're
25 not looking at that -- this exhibit, right? You --

1 THE WITNESS: No, sir.

2 JUDGE SANDRON: You can't look at it before you testify.

3 MS. YASSERI: Yeah.

4 THE WITNESS: I'll keep my eyes up.

5 Q BY MS. YASSERI: What -- what do you recall the fir --
6 what was the first topic that was discussed during your phone
7 call on November 25th, 2020?

8 A I believe he was okay with the way we set the standard
9 crewing levels -- he was good with that.

10 JUDGE SANDRON: Is that what he said?

11 THE WITNESS: Yes.

12 JUDGE SANDRON: Okay.

13 THE WITNESS: He had an issue with the 90 days.

14 Q BY MS. YASSERI: What did he say, specifically, with
15 respect to the 90 days?

16 A He did not like it.

17 Q Did he make a counterproposal, with respect to that --

18 JUDGE SANDRON: Well -- well -- well, actually, did he say
19 why he didn't like it?

20 THE WITNESS: He said it was too short.

21 Q BY MS. YASSERI: Did he provide -- did he provide a
22 counterproposal with respect to that time frame?

23 A No, he did not.

24 Q What else do you recall being discussed; what other
25 topics?



1 A He did not like the last two people on the list being
2 responsible for accepting the schedule.

3 Q And did he say why?

4 A I think he wanted to stick with the way that, originally,
5 we'd do it. We would offer it in seniority order, and if a --
6 I mean, it didn't make sense to me, because it -- it would
7 probably go through --

8 JUDGE SANDRON: Oh, all right. Now, wait, ju -- just
9 don't digress with it, you know. So -- so it'll be -- get a
10 little confusing --

11 THE WITNESS: Okay.

12 JUDGE SANDRON: -- if you mix in what -- your response to
13 what he was saying.

14 So I -- I think if you just tell us what he said.

15 THE WITNESS: Okay. I'll --

16 JUDGE SANDRON: As best as you can recall. Go -- go
17 ahead. Think for a minute, if you want to impose your -- your
18 thoughts on that.

19 THE WITNESS: He wanted to kind of stick to the original
20 way of doing it, by calling it out in seniority order.

21 JUDGE SANDRON: Okay. And -- and what about your other
22 proposals; did he respond to those that were in the MOU?

23 THE WITNESS: Yeah, the only thing he really liked was the
24 way we set the standard crewing levels.

25 Q BY MS. YASSERI: At any time during this phone call, Mr.

1 Skow, did Mr. Vartan provide any proposals?

2 A No.

3 Q I'd like to refer you back to GC Exhibit 159, Mr. Skow.

4 JUDGE SANDRON: Well -- all right. Right, before --
5 before you get to that, just on his recall, did -- did the name
6 "Centerline" come up in that conversation at all?

7 THE WITNESS: I don't recall.

8 JUDGE SANDRON: Do you remember anything else that either
9 you or he said in that conversation?

10 THE WITNESS: I don't -- I don't remember that coming up.

11 JUDGE SANDRON: Are -- are we talking about the notes that
12 are contained in General Counsel's Exhibit 159?

13 MS. YASSERI: Yes, Your Honor.

14 JUDGE SANDRON: All right. Now, do you want to refresh
15 him with those notes? It's up to you.

16 Q BY MS. YASSERI: Mr. Skow, I'd like you to -- to refer to
17 page 3 of GC Exhibit 159.

18 A Okay.

19 JUDGE SANDRON: Okay. But read it over to yourself, the
20 bottom part, starting with the "November 25th". And just --
21 just read it to yourself; the rest of the page.

22 And -- and when you're done, you can put the document
23 down.

24 THE WITNESS: Okay.

25 Q BY MS. YASSERI: Other than what you shared with us, Mr.

1 Skow, do you recall anything else being discussed at that --
2 during that phone call on November 25th with Mr. Vartan?

3 A Yes. I asked him about possibly granting a leave of
4 absence for those people who would turn down that schedule.

5 Q And what was Mr. Vartan's response?

6 A No.

7 Q And do you recall bringing up anything else?

8 A I don't recall.

9 JUDGE SANDRON: All right. Well, does that refresh your
10 recollection as to whether the name "Centerline" came up?

11 THE WITNESS: Yes, but I can't --

12 JUDGE SANDRON: All right.

13 THE WITNESS: -- remember what it referred to.

14 JUDGE SANDRON: Okay. All right. That's fine. If you
15 don't -- if it doesn't ring a bell now, that's fine.

16 THE WITNESS: Yeah.

17 Q BY MS. YASSERI: Mr. Skow, I'd like to, again, direct your
18 attention to page 3 of GC 159, to the notes that you took from
19 your phone call with Mr. Vartan on November 25th. If you can
20 just -- we can go sort of line-by-line, and if you'd let us
21 know whether those notations are based off of something you
22 said or Mr. Vartan said.

23 I believe you already testified about the 90 days --

24 A Yes.

25 Q What -- and what about the next item, 12 and 10 -- 12 plus

1 10?

2 A That was the standard crewing levels that he seemed in
3 agreement with.

4 Q And then what about the reference to number 2, "Turn down
5 guarantee"?

6 A I believe that was a -- we were engaging in conversations
7 about -- about the member being able to turn down that
8 schedule. We were having some type of conversation -- I can't
9 remember exactly what -- what we were talking about there.

10 Q And then number 3, "Centerline would not adjust" --

11 JUDGE SANDRON: All right.

12 Q BY MS. YASSERI: -- I believe -- does that say, "group",
13 on --

14 JUDGE SANDRON: All right. Well, I think there's a little
15 bit of a -- a problem, though, because it didn't refresh his
16 current recollection. So if he doesn't recall, now, based on
17 that -- that Centerline was discussed, how can he really, now,
18 say what -- what those represent?

19 Do you have any comments on that, Mr. Hilgenfeld?

20 MR. HILGENFELD: I agree, Your Honor. He's already
21 testified as to what his memory is. The doc --

22 JUDGE SANDRON: Right, it didn't --

23 MR. HILGENFELD: We've looked at this document to do that.

24 JUDGE SANDRON: I mean, it didn't refresh his
25 recollection, so I'm not sure that he can, now, testify about

1 what was said on subjects that he doesn't remember --

2 MS. YASSERI: Okay.

3 JUDGE SANDRON: -- were discussed. I mean, the other
4 parts, you know, he -- if you want to go through them, but I
5 don't know if you -- if you want to research whether it's
6 appropriate to allow, you know, the witness to cover areas that
7 he could not recall and were -- and for which he was not
8 refreshed, you know. You can do that, but I'm not sure if it's
9 appropriate.

10 MS. YASSERI: Okay.

11 JUDGE SANDRON: At least as far as to the references to
12 Centerline.

13 MS. YASSERI: Okay.

14 JUDGE SANDRON: I think the other areas, he's indicated
15 he -- he recalls discussions on those, so he can certainly go
16 through those portions.

17 MS. YASSERI: Okay.

18 Q BY MS. YASSERI: Okay. We talked about the -- Mr. Skow,
19 we -- we talked about the reference to the hours. What -- what
20 did you mean -- or what's ref -- in terms of, "Eliminate 90",
21 who -- who made the statement about 90 --

22 JUDGE SANDRON: Well -- well, actually, if you go up a
23 little further, it says, "Adjust group on schedule; 72 hours.
24 Eliminate 90, as per LO absence". Can -- do -- do you recall,
25 you know, who was raising tho -- those subjects?

1 THE WITNESS: I was. I talked to him about the
2 possibility of eliminating the -- the 90-day renewal. Well,
3 try to make it longer.

4 Q BY MS. YASSERI: And what was Mr. Vartan's response
5 regarding --

6 A He --

7 Q -- that topic?

8 A He didn't -- he was not interested in that.

9 JUDGE SANDRON: Yeah. And did --

10 Q BY MS. YASSERI: What did he say; do you recall?

11 A I don't recall what he said. I just --

12 JUDGE SANDRON: Well, there's a, "Do (sic) handcuff" --

13 "Other options: Do (sic) handcuff us"; who -- who said --

14 THE WITNESS: I --

15 JUDGE SANDRON: Do you remember that?

16 THE WITNESS: Yes, I do. He said, "Don't handcuff us",
17 basically.

18 JUDGE SANDRON: And it says, "Forward: 90 days, no good".
19 That was him?

20 THE WITNESS: Yes, the 90 -- yes, "90 days, no good".

21 JUDGE SANDRON: And what's, "Renwel (sic) consider"?
22 If -- if you can recall.

23 THE WITNESS: The renewal --

24 JUDGE SANDRON: Or renewal.

25 THE WITNESS: Yes. We would consider other options.

1 JUDGE SANDRON: And who said that?

2 THE WITNESS: I did.

3 JUDGE SANDRON: You said that.

4 Q BY MS. YASSERI: What about the reference to "trust";
5 who -- who said that?

6 A I did.

7 JUDGE SANDRON: What did you say?

8 Q BY MS. YASSERI: Why did --

9 THE WITNESS: I said that the -- that the stewards have a
10 hard time trusting the company, and that is problem with this.
11 Because -- that's why they were asking for the 90 days.

12 JUDGE SANDRON: And what about the reference to "Meal
13 penalty"?

14 THE WITNESS: Brian brought up the meal penalties at the
15 end.

16 JUDGE SANDRON: In what -- how?

17 THE WITNESS: He asked if I had looked at the MOU that the
18 company -- Doug -- Mr. Houghton had sent over, and I said that
19 I had sent it to my legal counsel to look at, and they would be
20 getting back to him.

21 JUDGE SANDRON: Okay.

22 Q BY MS. YASSERI: Just to go back, Mr. Skow, there's a
23 reference to the word "Freezing"; who said -- who said that?

24 A Yes, I do recall that -- that term. I've used it in other
25 contracts before. I asked him if we could freeze the doub --

1 if the company would be willing to consider freezing the double
2 time, out of the -- for the term of the contract. And Mr.
3 Vartan was not interested in doing that. He said -- I do
4 remember this, he said that we -- we need that clause in the
5 contract to make people come in to work.

6 Q Well, sir, can you explain that a little bit further?

7 A Well, under mandatory double time in our agreement, when
8 they can't get nobody to come in to work to cover the work,
9 they offer that as a way for people to come in to work.

10 JUDGE SANDRON: Okay. I guess there's one more sentence;
11 "Problem crewing, and flexibility". And do you recall --

12 THE WITNESS: Yeah, he -- that was Brian. He brought
13 up -- he brought his -- that he has a problem with crewing, and
14 he needs the flexibility. You know, I was going back and forth
15 with him, saying, I think we took care of it in this MOU for
16 you.

17 Q BY MS. YASSERI: What about the reference to "Matt",
18 hyphen, "discussion"? What's that?

19 A I don't recall what that was about. It doesn't ring a
20 bell.

21 MS. YASSERI: Your Honor, at this time, I'd like to move
22 for the admission of GC Exhibit 159.

23 JUDGE SANDRON: All right. I think -- any -- before we
24 get to any objections, if the General Counsel -- if you can
25 give me authority, at a later point, as to why I should

1 consider the references to Centerline in the document, even
2 though the witness was not refreshed by the document, I'll let
3 you make that argument, and I'll consider it.

4 MS. YASSERI: Thank you, Your Honor.

5 JUDGE SANDRON: Any objection to the document?

6 MR. HILGENFELD: No, Your Honor, not with how you've --
7 how you've ruled it -- positioned that statement.

8 JUDGE SANDRON: Okay. We have the nine -- okay. So
9 actually, we already had, I think, no objection to the first
10 part, correct?

11 MR. HILGENFELD: I don't think I made comment, one way or
12 the other, in the first part. I think it got withheld until
13 after.

14 JUDGE SANDRON: Oh, so -- so now you're -- now, what's
15 your position on -- on the full document?

16 MR. HILGENFELD: That is the position, Your Honor -- how
17 you've said. There's -- there's no objection with how you've
18 framed --

19 JUDGE SANDRON: All right.

20 MR. HILGENFELD: -- the issue on Centerline.

21 JUDGE SANDRON: All right. The -- the document is
22 admitted with the comment I made about the references to
23 Centerline.

24 **(General Counsel Exhibit Number 159 Received into Evidence)**

25 JUDGE SANDRON: And for Mr. Hilgenfeld, if you want to,

1 it'd be up to you if you want to argue why it should -- the
2 references should not be considered. I'll leave it up to you.
3 But it's the General Counsel, in the first instance, that would
4 have to explain why they should be.

5 MR. HILGENFELD: Yes, Your Honor.

6 Q BY MS. YASSERI: I'm sorry, Mr. Skow, I just wanted to go
7 back to that phone call with Mr. Vartan on November 25th, 2020.
8 Do you recall how it ended?

9 A I don't recall.

10 Q And do you recall how long the conversation lasted?

11 A It was, about -- approximately -- 10-, 15-minute
12 conversation.

13 Q Okay. Mr. Skow, I'd like to show you what's been marked
14 for identification as General Counsel's Exhibit 34. It's an
15 email and referenced attachment, consisting of four pages, sent
16 to you by Doug Houghton, on November 24th, 2020, with a subject
17 line, "MOU". Do you recognize this email and attachment --

18 A Yes.

19 Q -- including the four pages?

20 A Yes.

21 MR. HILGENFELD: I will object to this email. This is
22 dealing with settlement discussions on a nonrelated matter.

23 JUDGE SANDRON: Okay.

24 MS. YASSERI: It's relevant to these proceedings, Your
25 Honor. It goes to single-employer status.

1 MR. HILGENFELD: Well, it doesn't go to single-employer
2 status, Your Honor, it goes to a lawsuit that's been filed on
3 (indiscernible), against both Centerline and Westoil. These
4 were settlement discussions regarding that -- under 608.
5 Whether it's relevant or not, it's not admissible.

6 JUDGE SANDRON: Well, I --

7 MS. YASSERI: If Respondents are willing to stipulate that
8 Mr. Houghton sent Mr. Vartan -- sent Mr. Skow this email,
9 regarding this subject, while he was serving as senior vice
10 president of West Coast operations of Centerline, we don't need
11 the actual MOU in the record.

12 MR. HILGENFELD: Well, we would stipulate that Mr.
13 Houghton, on behalf of Centerline, sent an MOU to resolve a
14 legal dispute that he was involved in, and that included
15 Westoil and Millennium Maritime as well, and he sent it to Mr.
16 Skow.

17 JUDGE SANDRON: Okay.

18 MS. DERRY: Your Honor, may I be heard?

19 JUDGE SANDRON: Yes.

20 MS. DERRY: The IBU would not agree that this is settle --
21 protected settlement discussions. IBU is not a party to the
22 lawsuit, as he referenced.

23 JUDGE SANDRON: All right. Well, it may be, then,
24 something that will have to be determined later, as far as its
25 admissibility, but it doesn't appear that we'll be able to

1 decide that, right at this moment. So I'll allow testimony on
2 the subject.

3 Go ahead.

4 MS. YASSERI: Okay.

5 Q BY MS. YASSERI: Mr. Skow, what was this MOU about?

6 JUDGE SANDRON: (Indiscernible) -- okay. Yeah, I think
7 we -- we need to -- well, I think this -- all right. Well,
8 you -- you can cover it, but I think it -- maybe it's self-
9 explanatory, on its face, but you can ask him to identify it.

10 Q BY MS. YASSERI: What was your understanding, Mr. Skow, of
11 what this MOU was about?

12 A My understanding of this MOU was to memorialize that meal
13 and rest breaks were covered in the employees' wages.

14 Q And by, employees, are you referring to Westoil Marine
15 employees?

16 A Yes.

17 Q And would that also have applied to Millennium Maritime
18 employees, at the time?

19 A Yes.

20 Q Now, in his role as vice president of West Coast
21 operations at Centerline, had Doug Houghton communicated with
22 you about labor relations matters related to Westoil IBU
23 employees, in the past?

24 A Yes, he has, from time to time.

25 Q So this MOU was not the first time?

1 A No.

2 MR. HILGENFELD: I'm going to object and move to strike
3 that question.

4 JUDGE SANDRON: As --

5 MR. HILGENFELD: Well, it was leading, for one.

6 JUDGE SANDRON: Yes.

7 MR. HILGENFELD: But also for the other, it's dealing with
8 a separate matter that Centerline was directly involved in.
9 And we'd just renew, for the record, that maybe it's an ongoing
10 objection, Your Honor, that Centerline was brought into a
11 lawsuit that involved this matter. And so when he is reaching
12 out to Mr. Skow on behalf of Centerline, that does not
13 constitute reaching out on behalf of labor relations for
14 Westoil.

15 JUDGE SANDRON: Well, so -- well, maybe you want to then
16 just rephrase the question, and avoid a characterization of the
17 document, which you can do.

18 MS. YASSERI: Got it.

19 Q BY MS. YASSERI: Mr. Skow, prior to Mr. Houghton sending
20 you this email, on November 24th, 2020, had he communicated
21 with you about issues related to Westoil employees?

22 A Yes.

23 Q Okay. And --

24 JUDGE SANDRON: But -- yeah, go ahead.

25 Q BY MS. YASSERI: Did some of those issues deal with labor

1 relations?

2 MR. HILGENFELD: I'm going to object.

3 JUDGE SANDRON: All right. I think you'd better just ask
4 him what they dealt with, not --

5 MR. HILGENFELD: I -- I would --

6 Q BY MS. YASSERI: What -- what issues were those?

7 MR. HILGENFELD: I would also object to time. What time
8 frame are we talking? Mr. Houghton was a general manager for
9 Westoil Marine Services for almost 20 years.

10 JUDGE SANDRON: I think maybe you can limit it to the last
11 few years, probably --

12 Q BY MS. YASSERI: Mr. Skow, I want to focus your attention
13 on the time period of 2019, after 2019, when Mr. Houghton
14 became vice president of operations at Centerline. Had he
15 communicated with you about issues related to Westoil
16 employees?

17 A Yes.

18 Q Okay. And what issues did he -- had he communicated to
19 you about during that period of time?

20 A I can recall a discipline issue.

21 Q And that was related to a Westoil employee?

22 A Yes.

23 JUDGE SANDRON: Do you remember when that was?

24 THE WITNESS: It was -- I don't recall the exact month,
25 but it was in September, October of 2020.

1 JUDGE SANDRON: Do you remember what the issue was?

2 THE WITNESS: Yes.

3 JUDGE SANDRON: What was it?

4 THE WITNESS: It was an issue with an employee who they
5 said he was creating a work stoppage.

6 JUDGE SANDRON: And do you remember that -- how that
7 matter was resolved, or disclosed at final disposition?

8 THE WITNESS: Yes. Mr. Houghton spoke to me about the
9 issue, and said that they couldn't have this going on, but the
10 discipline was issued by -- by Mr. Vartan. The employee was
11 suspended for -- I believe it was a day.

12 JUDGE SANDRON: Any other specific incidents you can
13 recall in that time period? If you can.

14 THE WITNESS: It -- it was, like, oft -- not very often.
15 I can -- maybe a few months before then. Don't recall the
16 exact issue.

17 JUDGE SANDRON: Was there a disciplinary issue again, or
18 something different? If you remember.

19 THE WITNESS: I can't say for sure, so I don't want to say
20 something that I'm not positive on. So --

21 JUDGE SANDRON: All right, is --

22 THE WITNESS: That -- that's the one thing that stuck out
23 on my -- my --

24 JUDGE SANDRON: And just so we get some kind of maybe an
25 estimate, over that three-year period before this, do you

1 recall about how many times he communicated with you on
2 employee issues?

3 THE WITNESS: A handful of times.

4 JUDGE SANDRON: Would you say several?

5 THE WITNESS: Yeah, three maybe. I don't know the exact
6 number, but it was on occasion.

7 JUDGE SANDRON: It was what?

8 THE WITNESS: On occasion.

9 JUDGE SANDRON: All right.

10 Q BY MS. YASSERI: Mr. Skow, I'd like to show you what's
11 been marked for identification as General Counsel's Exhibit 35.
12 It's an email thread consisting of two pages between you and
13 Doug Houghton, following up on Doug Houghton's November 24th,
14 2020 email.

15 JUDGE SANDRON: All right. Do you wish to offer the
16 document, 34?

17 MS. YASSERI: My understanding, Your Honor, was -- well, I
18 move for the admission of GC Exhibit 34 at this time.

19 JUDGE SANDRON: All right. I know there's an objection to
20 it, and as I said, the parties can argue whether it's
21 appropriately considered or should be excluded as -- as a
22 document that relates to litigation matters. It's unrelated to
23 the allegations before me. So the document is received with
24 that understanding.

25 **(General Counsel Exhibit Number 34 Received into Evidence)**

1 Q BY MS. YASSERI: Mr. Skow, directing your attention to GC
2 Exhibit 35, do you recognize these emails --

3 A Yes.

4 Q -- dated November 29th, 2020?

5 A Yes.

6 Q I want to direct your attention to your email on the first
7 page, from November 29th, 2020, to Doug Houghton. Why -- why
8 did you send that email?

9 A I sent it for two reasons. I wanted to pass Doug the
10 message that to have his legal counsel get ahold of our legal
11 counsel over the proposed MOU that he had sent me. And then in
12 the second paragraph, I wanted to reach out to -- to Mr.
13 Houghton to see if he can kind of help -- help out and maybe
14 talk to the -- Brian about the MOU that we have proposed and
15 see if we can try to get the -- get things -- try to get things
16 moving, because we were kind of stuck.

17 JUDGE SANDRON: So -- so the second paragraph is -- is
18 talking -- okay, so the part of this that dealt with your
19 proposed MOU is in the second paragraph?

20 THE WITNESS: Yes, sir.

21 Q BY MS. YASSERI: And was -- Mr. Skow, was that the
22 November 23rd, 2020 MOU that you had originally sent to Mr.
23 Vartan?

24 A Yes.

25 Q I want to direct your attention to page 2, of the exhibit

1 at the top. You make the reference to setting standard crewing
2 levels at 12 tankermen and 12 engineers. Why did they --
3 why -- why did the engineers come up in this email?

4 A I wanted to kind of suppose some different ideals, to
5 where we could probably try and get some movement. I -- I
6 believed Mr. Houghton would kind of under -- he knows the
7 collective bargaining agreement, and he would probably kind of
8 understand what we were trying to do.

9 Q What, if any, impact would adding two engineers to the
10 standard crewing levels have had on overtime costs?

11 A In -- in my opinion, it would -- it would have the same
12 effect as putting someone on a standard crewing level, with the
13 exception of they would -- in this, they would -- they would
14 get the 10-day layoff notice.

15 JUDGE SANDRON: Okay. And -- and when it says duration of
16 MOU of 60 days, to what does that refer?

17 THE WITNESS: I was just letting him know that we wanted
18 to do the MOU 60 days, and then I asked if there was movement,
19 if we could mutually agree to extend the MOU 10 days prior to
20 the expiration of the 60 days.

21 JUDGE SANDRON: 60 -- explanation, 60 days of what?

22 THE WITNESS: That the MOU would be in effect for 60 days.
23 What I'll -- if I could further explain?

24 JUDGE SANDRON: Yes.

25 THE WITNESS: I was trying to work with my stewards,

1 because they had trust issues with the company, they just
2 didn't trust them. And I was trying to -- trying to work out
3 between both parties some way of trying to get this thing
4 agreed upon. And that's why I was supposing this back to Mr.
5 Houghton, to kind of see if we could help this -- get this
6 thing moving along.

7 JUDGE SANDRON: So -- so just to be clear, the duration
8 referred to what?

9 THE WITNESS: That the -- that the MOU would be in effect
10 for 60 days, and then we would revisit it --

11 JUDGE SANDRON: Oh, I see.

12 THE WITNESS: -- before the 60 days was up. Like, 10
13 days, as I was proposing to Mr. Houghton in this email.

14 JUDGE SANDRON: So is -- is -- so that was a change from
15 what was in your MOU. Is that paragraph 4?

16 THE WITNESS: Yes.

17 JUDGE SANDRON: Where it was 90 days?

18 THE WITNESS: Yes.

19 Q BY MS. YASSERI: Mr. Skow, at the time that you sent this
20 email on November 29th, 2020, had the IBU received a
21 counterproposal to its November 23rd MOU?

22 A No.

23 MS. YASSERI: I'd like to move for the admission of
24 General Counsel's Exhibit 35 at this time.

25 JUDGE SANDRON: Any objection?

1 MR. HILGENFELD: No objection, Your Honor.

2 JUDGE SANDRON: The document is received.

3 **(General Counsel Exhibit Number 35 Received into Evidence)**

4 Q BY MS. YASSERI: Mr. Skow, I'm showing you what's been
5 marked for identification as General Counsel's Exhibit 36.

6 It's an email thread consisting of three pages between you and
7 Brian Vartan, with you following up on the IBU's November 23rd,
8 2020 MOU. Do you recognize this email thread?

9 A Yes.

10 Q I want to direct your attention to the third page of the
11 exhibit, to your November 30th, 2020 email to Mr. Vartan.
12 Why -- why did you send that email?

13 A Is it -- which timestamp are we talking about?

14 Q The -- the -- the email at the bottom of page 3.

15 A Oh, the one at 11?

16 Q Oh, I'm sorry, yes.

17 A Okay.

18 Q 11 -- 11:00.

19 A Thank you. I went back and I talked to my stewards about
20 possibly moving on the MOU. And they -- what they told me was,
21 we're not moving until the company gives us a proposal back.
22 They felt like they were negotiating against themselves.

23 Q And at the time that you sent this email on November 30th,
24 had the IBU received a counterproposal to its November 23rd
25 MOU?

1 A No.

2 THE WITNESS: God bless you.

3 Q BY MS. YASSERI: I want to direct your attention, Mr.
4 Skow, to page 2 of the exhibit, towards the middle of the page,
5 to an email sent by Mr. Vartan on December 1st, 2020. And I
6 want to direct your attention to the last sentence of the
7 email, where he write -- Mr. Vartan writes, "The IBU should
8 have considered real cost-cutting measures, like a reduction in
9 hourly rates, benefits, eliminating third-man position,
10 covering work with a deckhand, and/or switching to the company
11 medical."

12 Now prior to Mr. Vartan's December 1st email, did Westoil
13 provide the IBU with any proposals related to employee
14 benefits?

15 A No.

16 Q Prior to Mr. Vartan's December 1st email, did Westoil
17 provide the IBU with any proposals related to eliminating the
18 third man position?

19 A No.

20 Q Same question with respect to whether Westoil had provided
21 the IBU with any proposals related to covering work with a
22 deckhand?

23 A No.

24 Q And prior to Mr. Vartan's December 1st email, did Westoil
25 provide the IBU with any proposals related to switching to the

1 company medical?

2 A No.

3 Q Now there's also a reference to a reduction in hourly
4 rates. Prior to Mr. Vartan's December 1st email, did Westoil
5 bring up the topic of hourly rates?

6 A Yes.

7 Q And when was that?

8 A It was in our November 13th, 2020 meeting.

9 Q You mean November 9th meeting that you had testified
10 about?

11 A November 9th, I'm sorry.

12 Q And -- and what -- and what was said about that, and by
13 whom?

14 A Brian Vartan said that he was not seeking any pay
15 reductions.

16 Q And just to clarify, prior to Mr. Vartan's December 1st
17 email, did Mr. -- did Westoil provide the IBU with any
18 proposals related to reduction of hourly rates?

19 A No.

20 Q Mr. Skow, when was the IBU first notified of the specific
21 cost-cutting measures raised in the last sentence of Mr.
22 Vartan's December 1st, 2020 email to you?

23 A It was in this email.

24 Q Now at the time of --

25 MS. YASSERI: I'm sorry, let me do this. Your Honor, I'd

1 like to move for the admission of General Counsel's Exhibit 36
2 at this time.

3 JUDGE SANDRON: Mr. Hilgenfeld, any objection?

4 MR. HILGENFELD: No objection, Your Honor.

5 JUDGE SANDRON: The document is received.

6 **(General Counsel Exhibit Number 36 Received into Evidence)**

7 MS. YASSERI: Your Honor, it's 12:00. This might be a --
8 a good stopping point. I'm going to transition to a different
9 meeting. I don't know if this would be an appropriate time for
10 lunch.

11 JUDGE SANDRON: All right, that -- that would be fine.
12 Should -- should we take one hour?

13 MR. HILGENFELD: That'd be great, Your Honor.

14 JUDGE SANDRON: All right, off the record.

15 MS. YASSERI: Your Honor, if I may, can we get until 1:15?
16 Because we were hoping to talk about some stipulations with Mr.
17 Hilgenfeld.

18 JUDGE SANDRON: All right, okay. All right --

19 MS. YASSERI: Is that good?

20 JUDGE SANDRON: -- okay, he's back on the record. In
21 order to give the parties an opportunity to try and stipulate,
22 we will resume at 1:15 p.m. Off the record.

23 (Off the record at 12:04 p.m.)

24 JUDGE SANDRON: Okay, back on the record. I hope
25 everybody had a nice lunch, and we're ready to meet and resume

1 direct examination.

2 MS. YASSERI: Thank you, Your Honor.

3 **RESUMED DIRECT EXAMINATION**

4 Q BY MS. YASSERI: Mr. Skow, I'd like to direct your
5 attention to GC Exhibit 36. It's already been admitted. I --
6 I want to direct your attention to the bottom of the first page
7 and leading into the second page, to an email that you sent to
8 Mr. Vartan on December 1st, 2020, at 10:47 p.m. In this email,
9 towards the end of the email, you are requesting that you
10 continue bargaining regarding the MOU. And you're requesting
11 to meet with Mr. Vartan, correct?

12 A Yes.

13 Q Did the IBU meet with Westoil to discuss the MOU and the
14 Glencore work sometime after Mr. Vartan's December 2nd, 2020
15 response?

16 A Yes, we had a meeting.

17 Q And when was that meeting?

18 A It was --

19 MR. HILGENFELD: I'm sorry, I can't hear.

20 JUDGE SANDRON: If you can keep your voice up.

21 THE WITNESS: How about now?

22 JUDGE SANDRON: Yes.

23 THE WITNESS: Okay.

24 JUDGE SANDRON: That's much better.

25 THE WITNESS: Sorry.



1 A December 9th of 2020.

2 Q BY MS. YASSERI: And do you remember the time of the
3 meeting?

4 A I recall it being an afternoon meeting.

5 Q Where did it take place?

6 A On Zoom.

7 Q And who was present on behalf of the IBU at this meeting?

8 A It was myself and the -- the Westoil job stewards. But I
9 don't they were all -- all of them were there. I just recall a
10 couple of them being there.

11 Q Do you remember which stewards specifically?

12 A It was Ricky Gomez, for sure, and I believe Cris Sogliuzzo
13 was there also.

14 Q And who was present on behalf of Westoil Marine Services
15 at this point?

16 A From what I recall, it was Brian Vartan and Matt Hathaway.

17 Q And how did this meeting start, as best as you can recall?

18 JUDGE SANDRON: Before we get -- did you recall who
19 initiated that particular meeting?

20 THE WITNESS: I did. Yes, I did, I asked for the meeting,
21 and they agreed to dates.

22 A How the meeting started out, I asked them, in regards to
23 his -- I believe it was his December 1st email, where he had
24 all of the items that he listed on there for cost cutting, for
25 consideration. I asked him for a labor cost figure, what that

1 would equate to.

2 Q BY MS. YASSERI: What did you mean by labor cost figure?

3 A What I wanted to know, what I really wanted to know, was
4 how much we were off from the next subsidiary that was making a
5 bid on the work.

6 Q Did Mr. Vartan respond to that question regarding labor
7 costs?

8 A Yes, he said he did not know.

9 Q And why did you want to know that labor cost figure?

10 A Because having that -- that figure, we could go back to
11 our MOU and see if we could make any type of adjustments,
12 evaluate it, make changes to it, and do whatever we needed to
13 do to make it -- make it work.

14 Q Other than responding to your question about labor costs,
15 do you recall Mr. Vartan saying anything else during that
16 meeting?

17 A No, I don't recall.

18 Q Do you recall saying anything else during that meeting?

19 A I remember being persistent about getting that -- that
20 figure.

21 Q Did any of the stewards speak up at all at this meeting,
22 as best as you recall?

23 A No, I don't recall.

24 Q Do you recall anything else being discussed, just
25 generally, in that meeting?

1 A No, I don't recall.

2 Q Do you recall if Mr. Vartan brought up the topic of the --
3 the status of Westoil's bid at this meeting?

4 A No, I -- I don't recall any of that.

5 Q Now you previously testified that on November 9th, 2020,
6 Mr. Vartan had told you that Westoil had to submit an amended
7 bid by November 30th, 2020; do you remember that?

8 A Yes.

9 Q Okay. Why did you continue to discuss the bid issue after
10 that deadline of November 30th, 2020?

11 A I continued -- well, I continued, because as long as they
12 were willing to talk about it, I was willing to keep going
13 until they told me, no, we're not negotiating, we're done.

14 Q This meeting on December 9th, 2020, Mr. Skow, how did the
15 meeting end?

16 A I ended the meeting.

17 Q Why did you do that?

18 JUDGE SANDRON: You testified you said -- how -- how did
19 you end the meeting?

20 THE WITNESS: I just ended it; I just pushed the eject
21 button and ended the meeting.

22 Q BY MS. YASSERI: Why did you do that, Mr. Skow?

23 A Because I know I wasn't going to get the -- the number
24 that I was seeking from them, and I was frustrated.

25 Q Do you recall what, if anything, Mr. Vartan said before

1 you decided to leave the meeting?

2 MR. HILGENFELD: Objection, asked and answered. He
3 already recalled he doesn't remember anything else about this
4 meeting.

5 JUDGE SANDRON: Well, I think -- I'll allow it.

6 A I -- I -- I don't recall anything else --

7 Q BY MS. YASSERI: Okay.

8 A -- on it.

9 Q How long was this meeting?

10 A Not very long. 15 minutes at the most.

11 Q Now at the time of this meeting on December 9th, 2020, had
12 Mr. Vartan or anyone else from Westoil provided the IBU with a
13 counterproposal to the IBU's November 23rd MOU?

14 A No.

15 Q Now you testified about being upset about not receiving
16 that labor cost figure. Did the IBU ever receive that labor
17 cost figure?

18 A Yes.

19 Q And when was that?

20 A I received -- I want to -- that was on December 11th,
21 2020 -- 2020.

22 Q And -- and how did you get that information on December
23 11th?

24 A I went to lunch with Mr. Houghton on that day.

25 Q And who initiated this lunch meeting?

1 A Mr. Houghton did.

2 Q Okay. And where did it take place?

3 A In Long Beach.

4 Q Was there anyone else present other than you and Mr.
5 Houghton?

6 A It was just me and Mr. Houghton.

7 JUDGE SANDRON: What particular location?

8 THE WITNESS: It was by Parker's Lighthouse, I believe,
9 somewhere in there. We went to a restaurant right in that
10 area, right there --

11 JUDGE SANDRON: I see.

12 THE WITNESS: -- in Long Beach, down by the -- by the
13 water.

14 Q BY MS. YASSERI: And how did this luncheon meeting start?
15 Who -- who spoke up first, what was said?

16 A It was a general conversation. Doug asked, how's the
17 family, how you doing, how was the guys doing. That -- that
18 was pretty much conversation going back and forth. It was just
19 lunch.

20 Q At what point during this luncheon meeting did the topic
21 of labor costs come up?

22 A It came up towards the end -- like, towards the end of
23 the -- the lunch.

24 Q And how did it come up?

25 A Mr. Houghton gave me the figure. He said, the figure

1 you're looking for is 13 percent.

2 Q And once Mr. Houghton said that, did you respond? And
3 what did you say?

4 A I said, hey, thanks.

5 JUDGE SANDRON: And -- and that figured represented what?
6 13 percent --

7 THE WITNESS: I -- I believe -- I believe, how I took it,
8 was that we were 13 percent off the next subsidiary, that
9 bidding. We just wanted to be in line so we have a fair
10 chance. That's all I was looking for. That's -- that's how I
11 took it.

12 JUDGE SANDRON: Did -- did he explain that to you, is
13 that --

14 THE WITNESS: No, he just -- he just gave me the
15 percentage.

16 Q BY MS. YASSERI: And Mr. Skow, what impact, if any, would
17 knowing that labor cost figure have had on the IBU's November
18 23rd MOU?

19 A Well, I could have used that figure in evaluating our
20 proposal, make an adjustment to it, try to come as close as
21 possible as I could to try to give them a competitive bid.

22 Q Do you recall anything else being discussed at this
23 meeting with Doug Houghton on the 11th of December?

24 A I did ask him this. I'll bring it up. That since we were
25 in the middle of our union elections, and there was always --

1 and the date was coming up to where they were going to be
2 counting the ballots, I asked them -- I asked Doug, since I was
3 on a leave of absence from there, I asked him if I was going to
4 have any problems going back to work.

5 Q Did Mr. Houghton respond?

6 A He responded kind of, like, to the effect of, you don't
7 have nothing to worry about, you do a good job for your
8 members, I don't think you're going to have any problems.

9 Q Now Mr. Skow, had you ever spoken to Mr. Houghton one on
10 one about the IBU election before this meeting on December
11 11th?

12 A No.

13 JUDGE SANDRON: So just to make sure I understand, you
14 brought up the subject?

15 THE WITNESS: Yes, I did. I just wanted to know if I was
16 going to have an issue, so I could make a good decision for me
17 and my family.

18 Q BY MS. YASSERI: At this meeting, Mr. Skow, do you recall
19 Mr. Houghton saying anything else?

20 A No, I don't recall at that meeting.

21 Q Did Mr. Houghton ever give you any proposals about either
22 crewing, manning, or health insurance for the IBU's
23 consideration at this meeting on December 11th?

24 A I don't recall.

25 JUDGE SANDRON: Do you recall if he gave you any proposals

1 at all?

2 THE WITNESS: No.

3 Q BY MS. YASSERI: I'm sorry, is that no, you don't recall,
4 or that no, he didn't?

5 A No, I don't recall.

6 Q Now at the time of this meeting on December 11th, had the
7 IBU received a counterproposal to its November 23rd MOU?

8 A No.

9 Q Mr. Skow, prior to this meeting on December 11th, did you
10 have any one-on-one meetings with Mr. Houghton where the topic
11 of labor costs were discussed?

12 A Can you repeat that again, please?

13 Q Prior to this meeting on December 11th of 2020, did you
14 have any meetings with Mr. Houghton where the topic of labor
15 costs were discussed?

16 A No.

17 Q Now Mr. Skow, what, if anything, did you do with the
18 information that you received from Mr. Houghton regarding labor
19 costs that day?

20 A I took that information and I discussed it with Jay
21 Ubelhart and our job stewards. And I recall one of my job
22 stewards asking, well, what does that mean? So I gave him my
23 perspective, what I thought that meant. I asked him, if you
24 guys would please go back and, you know, see where you guys
25 could make some adjustments on this -- on the -- on this last

1 proposal, so we could possibly maybe go back and give this to
2 the company and see if they would accept it.

3 Q Now when do you recall the next time that the topic of the
4 Glencore contract coming up?

5 JUDGE SANDRON: (Indiscernible)?

6 Q BY MS. YASSERI: After your meeting -- let me rephrase.

7 JUDGE SANDRON: Okay.

8 Q BY MS. YASSERI: After your meeting with Mr. Houghton that
9 day on December 11th, 2020, when do you recall the next time
10 the issue of the Glencore contract coming up?

11 JUDGE SANDRON: With him or anybody else in the company.

12 A Yeah, it -- it -- it was with Mr. Houghton again. And it
13 was on December 28th, 2020.

14 Q BY MS. YASSERI: And -- and how did it come up?

15 A I received a phone call from him.

16 Q Do you remember the time of the day?

17 A No, I do not.

18 Q And how did the conversation start?

19 A Doug asked me not to announce this to anybody yet until it
20 came -- until it come out on a company announcement. He stated
21 to me that, one, about an asset sale that occurred between
22 Saltchuk and Centerline, which the Millennium Brand --
23 Millennium Maritime Brand ship assist contracts went to
24 Saltchuk in exchange for fueling barges and the Chevron
25 contract from Saltchuk. He also said that economics drove

1 Centerline's decision to award the Glencore contract to another
2 Centerline subsidiary.

3 And I asked him the question -- I remember asking him the
4 question, because I wanted to know. I asked him if that was
5 Olympic Tug & Barge, if -- if it was going to Olympic, and he
6 said yes. I asked him also that -- that if Saltchuk was going
7 to offer initial employment to the -- to the Millennium guys
8 who may lose their jobs over this transaction, because it's in
9 our contract in -- for the -- for that to be followed. And he
10 said the -- the contract was going to be followed on that -- on
11 that part of it.

12 And I think -- I told him, thank you for letting me know,
13 and that pretty much ended the conversation. I was kind of --
14 I was surprised. I was surprised by it.

15 Q Why were you surprised?

16 A Because I didn't think, you know, after 30 years of
17 service in that contract, that it would go away. I mean, it
18 was hard to take.

19 Q Do you recall anything else from this phone call with Mr.
20 Houghton?

21 A I don't recall anything else. That's -- oh, yes, I do
22 remember one thing. He wanted to get together to meet to start
23 removing Millennium Maritime clauses out of the collective
24 bargaining agreement. And I -- I told Doug that it would have
25 to wait, because I was -- I was on vacation. I was on a

1 Christmas vacation at that time. So I told him, as soon as I
2 got back into the office on -- right after the first of the
3 year, that we would schedule a meeting to start discussing
4 those items.

5 Q Do you recall anything else being discussed at this
6 meeting?

7 A That's all I can recall.

8 Q Was the Minerva or Peninsula contracts a topic of
9 discussion during this phone call?

10 A No.

11 Q How long did this phone call last?

12 A Maybe ten minutes.

13 Q Now Mr. Skow, when was the first time that you had heard
14 that Centerline had awarded the Glencore contract to Olympic
15 Tug & Barge?

16 A On that phone call with Mr. Houghton.

17 Q Now at around that time in December of 2020, do you know
18 what percent of work performed by Westoil bargaining unit
19 employees was for Glencore?

20 MR. HILGENFELD: Objection, foundation.

21 MS. YASSERI: I asked if he knows.

22 JUDGE SANDRON: All right, well I -- I don't think there's
23 any way he knows. He's not on the boats, he's not on the
24 vessels. He doesn't look at the logs. He just -- there's no
25 foundational aspect that he could have that information

1 through.

2 MS. YASSERI: If -- if you can let me, Your Honor, pursue,
3 and he can maybe establish how he -- how he knows?

4 JUDGE SANDRON: Well, you have a -- do you expect he'll
5 have firsthand knowledge in his answer, or is it -- is it going
6 to be based on what others told him?

7 MS. YASSERI: I believe it's firsthand knowledge.

8 JUDGE SANDRON: All right.

9 MS. YASSERI: Through some basis, but I --

10 JUDGE SANDRON: All right.

11 MS. YASSERI: Yeah.

12 JUDGE SANDRON: Go ahead.

13 Q BY MS. YASSERI: Let me ask again, Mr. Skow, at around
14 that time in December of 2020, do you know what percent of --
15 what percent of the work performed by Westoil bargaining unit
16 employees was for the Glencore contract?

17 A I estimate it would be about 40 percent.

18 Q And how do you know that?

19 A By having those discussions with a job steward who was a
20 tankerman. He has access to bill of ladings. We kind of --
21 what we've done over the months, we always kept track of how
22 much oil was being delivered or loaded. That way we can just
23 track the amount of barrels. Because at the time, we were
24 below standard crewing levels. And when the barrels would
25 rise, we would go back and ask the company, put guys back on

1 schedule, because we felt that the work was -- the work had
2 increased.

3 JUDGE SANDRON: Did you look at any reports yourself?

4 THE WITNESS: No, I relied on the job steward to let me
5 know.

6 MR. HILGENFELD: All right, we move to strike, improper
7 hearsay.

8 JUDGE SANDRON: Well, it is hearsay.

9 MS. YASSERI: I'll move on.

10 JUDGE SANDRON: And I -- I think -- I think as I said
11 earlier, hearsay can be admissible in some circumstances, and
12 given appropriate weight, but it -- it -- it needs to have some
13 kind of reliability factor.

14 And -- and -- or -- and -- and corroborated -- and/or
15 corroborated by other record evidence.

16 MS. YASSERI: Okay.

17 JUDGE SANDRON: And if you have the other evidence, then
18 you don't need him to give hearsay.

19 MS. YASSERI: Yep, yes.

20 Q BY MS. YASSERI: Just to clarify, Mr. Skow, in your
21 capacity as regional director of the IBU, did you ever review
22 bill of ladings related to work that Westoil performed for
23 Glencore?

24 A Not in my capacity as regional director.

25 Q Okay.

1 JUDGE SANDRON: Did you ever review those bills of lading?

2 THE WITNESS: Yes, when I was employed by --

3 MR. HILGENFELD: He hasn't been employed since 2009, give
4 or take.

5 JUDGE SANDRON: All right.

6 MR. HILGENFELD: Sooner -- maybe longer than that.

7 JUDGE SANDRON: So it was some time ago.

8 THE WITNESS: Yeah, it would be July 2009, counsellor.

9 JUDGE SANDRON: On that -- on that issue -- on that issue,
10 there's agreement.

11 MR. HILGENFELD: That's true.

12 Q BY MS. YASSERI: Now you mentioned Olympic Tug & Barge,
13 Mr. Skow. In the past, had Olympic Tug & Barge employees
14 performed work in the LA Long Beach harbors?

15 A Yes.

16 Q And what kind of work?

17 A They performed cross-harbors work.

18 Q And what do you -- what is -- what do you mean by cross-
19 harbor work?

20 A That -- that's a term that's used to describe terminal-to-
21 terminal transfer work.

22 Q And can you describe for us what is considered terminal-
23 to-terminal transfer work?

24 A Yes, I can. What the terminal-to-terminal transfer work
25 is, is basically when a tug brings a fueling barge into an oil

1 terminal, they can either load, or what we call pump off.

2 Usually most of the time it's loading the barge, and then the
3 tug takes it to another oil terminal, and they pump off to the
4 other terminal.

5 Q Do terminal to terminal transfers differ from bunk --
6 bunkering?

7 A Yes.

8 Q How so?

9 A In bunkering, the -- the tug takes the barge into an oil
10 terminal to load fuel oil. After it's done finishing loading
11 fuel oil, the tug comes back, picks up the barge, and takes it
12 to a ship at a berth or maybe out in an anchorage.

13 Q Now to your knowledge, Mr. Skow, prior to 2020, did
14 Olympic Tug & Barge perform bunkering work in the LA and Long
15 Beach harbors?

16 A Yes.

17 Q And how -- how often?

18 A It wasn't very often from -- when I was working, it
19 happened a few times. But that's when we had overflow work
20 where we could not do the work. I could recall that Olympic
21 would -- would do that work, because none of our barge -- all
22 our barges were working.

23 Q In -- in what period of time was that?

24 A Well, it had to be before 2009. We're talking -- I can't
25 tell you the specific year, but it did happen.

1 JUDGE SANDRON: I think that's fairly remote. You know,
2 it's -- if you're getting within 13 years ago -- or 11 years
3 ago before the pivotal events here.

4 Q BY MS. YASSERI: I want to go back, Mr. Skow. You
5 testified previously about a phone call with Mr. Houghton on
6 December 28th, 2020.

7 A Yes.

8 Q Now after that phone call, did you have any subsequent
9 discussions with representatives from Westoil and/or Centerline
10 about the Glencore contract?

11 A It was on January 5th, 2021.

12 Q Okay. And where did these discussions take place?

13 A They took place over Zoom.

14 Q Do you remember the time of this Zoom meeting?

15 A I do not recall.

16 Q And who represented the IBU at this meeting?

17 A It was myself, newly elected President Jay Ubelhart, and
18 the only job steward I believe that was there was Cris
19 Sogliuzzo. But he came on late on the call, I remembered.
20 Came on towards the end.

21 Q And who was present on behalf of Westoil and/or Centerline
22 at this meeting?

23 A It was -- I know Mr. Houghton was in there. I don't
24 recall if Brian Vartan was there. I -- yeah, the only one I --
25 I can recall was Mr. Houghton being in that meeting, because he

1 did all the talking.

2 Q And -- and who spoke up first at this meeting, and what
3 did they say?

4 A Mr. Houghton did. He was giving me and Jay a rundown of
5 why Centerline choosed another business model.

6 Q What did he specifically say, as best as you can recall?

7 A Well, he talked about black oil being a dying business
8 again. He did mention that. He talked about other companies
9 struggling during COVID, that the companies were having a
10 hard -- hard time. He talked about how -- their difficulties
11 with Foss Maritime also in the ship assist business. That's --
12 that's about what I can recall on what he said.

13 Q Do you recall speaking up at this meeting?

14 A Yes, I did.

15 Q What did you say?

16 A I asked Mr. Houghton a lot of questions.

17 Q What do you -- what kind of questions do you recall
18 asking?

19 JUDGE SANDRON: One thing. When he -- when he brought up
20 all these things that were going on in the industry, what was
21 their relationship to what did he -- in other words, what was
22 he talking about as -- as a subject, when he was mentioning
23 these different factors?

24 THE WITNESS: I think -- well, this is how I perceived it,
25 that he was --

1 JUDGE SANDRON: All right, well -- well, he needs -- well
2 did he -- did he call this meeting?

3 THE WITNESS: Yes, he did.

4 JUDGE SANDRON: Okay. So when he opened it -- or did he
5 ever say before the meeting, the purpose before the meeting,
6 what he said he wanted in the meeting? Did he say what he
7 wanted to talk about?

8 THE WITNESS: Yeah, he wanted to -- he wanted to start
9 removing items from the Millennium Maritime contract out of the
10 collective bargaining agreement.

11 JUDGE SANDRON: Okay. And then when he opened the
12 meeting, he was talking about the different factors?

13 THE WITNESS: Yes.

14 JUDGE SANDRON: But the -- what -- how did that relate to
15 moving the Millennium (indiscernible)?

16 THE WITNESS: It didn't.

17 JUDGE SANDRON: Okay.

18 THE WITNESS: He was --

19 JUDGE SANDRON: All right.

20 THE WITNESS: I think he was trying to justify why
21 Centerline made that decision.

22 JUDGE SANDRON: He -- did he say that, though?

23 THE WITNESS: No, he didn't. That's how I perceived it.

24 JUDGE SANDRON: So what -- what was your response when he
25 brought up these?

1 THE WITNESS: I told him I -- I understood. I -- I
2 understand about all the situations with COVID, and how all the
3 other companies are struggling. Because they're -- they
4 weren't the on -- only ones struggling. There was other -- our
5 other signatories have -- were struggling, too. Up --
6 especially up and down the West Coast, with all our other IBU
7 companies.

8 JUDGE SANDRON: All right. Now it's best if you just
9 limit your answer to the conversation --

10 THE WITNESS: Okay.

11 JUDGE SANDRON: -- or -- so we know that that's what was
12 said.

13 THE WITNESS: Yeah. I -- I just told him I understood,
14 and we welcome new ideals.

15 Q BY MS. YASSERI: Do you recall Mr. Houghton saying
16 anything else at this meeting?

17 A No, not until we got to the part about opening the
18 agreement. I think we -- we were asking a lot of questions
19 because we wanted to get answers to all -- you know, try to get
20 to the -- you know, find out what's going on, how it was going
21 to affect our membership.

22 JUDGE SANDRON: Is this back to the Millennium issue?

23 THE WITNESS: Yes.

24 Q BY MS. YASSERI: Do you recall if the job support --
25 excuse me, the job stewards spoke up at all at this meeting?

1 A At -- at the end, Cris Sogliuzzo had a couple questions.

2 Q What do you recall him saying at the meeting?

3 A He wanted to know if initial offers of -- of an employment
4 were offered -- that Saltchuk was going to offer initial offers
5 of employment. And he also asked --

6 Q I'm sorry, just to -- who responded to that question?

7 A Mr. Houghton did.

8 Q And what did he say?

9 A He said that the contract is going to be followed.

10 Q Okay. Do you recall Mr. Sogliuzzo asking any other
11 questions?

12 A Yes, I -- I remember him asking another question.

13 Q What did he ask?

14 A He asked if -- if -- if Westoil was going to man the new
15 Chevron barges and the push tugs.

16 Q And who responded to that question? I'm sorry, what did
17 Mr. Houghton say in response to that question?

18 A He said Westoil was not competitive.

19 Q Do you recall anything else being discussed at this
20 meeting?

21 A Yes, I asked him questions also.

22 Q What questions did you ask him?

23 A I asked how many of my members were going to be affected
24 by this -- by this asset sale. I wanted to know if anybody
25 was -- how many people were going to be laid off, potential

1 layoffs.

2 Q What did Mr. Houghton say in response to that question?

3 A He said he did not know, and he would have to circle back
4 to me.

5 Q Do you recall asking any other questions?

6 A Yes. I asked him if there was going to be any tugboats
7 that were going to move Westoil's barges. And Mr. Houghton
8 said that it'd be another -- another company. He didn't -- he
9 did not specify which one, but he said another company would.

10 Q Do you recall asking any other questions?

11 A Let's see. I did ask him when was this transfer going to
12 take effect.

13 Q What did he say in response to that question?

14 A He said it would be towards, like, the end of February.

15 Q Of 2021?

16 A Yes, 2021.

17 Q Do you recall anything else being discussed at this
18 meeting?

19 A Let's see. We started going into about -- he started --
20 he gave -- he gave me kind of his view, how he wanted to start
21 taking clauses out of the contract that had to do with
22 Millennium Maritime. And I let him finish, and I -- I stated
23 to him, I said, well, I would call that opening the agreement,
24 wouldn't you agree? And he said he didn't -- he did not -- he
25 wasn't sure, that he would have to get with Chris and -- Chris

1 and ask him that question.

2 And I said, that's fine. And I said, for me, that's
3 opening up the agreement, I've got to send out notices to
4 the -- to the federal government, state mediation, maybe send
5 them an opener. I mean, I did pass that back on to him. And
6 he said he would get together with Chris to speak with Chris
7 about that.

8 Q And just for clarity, when you say Chris --

9 A Chris -- Mr. Hilgenfeld.

10 Q Do you recall anything else being discussed at this
11 meeting on January 5th, 2021?

12 A I don't remember anything else.

13 Q Was the Minerva contract a topic of discussion?

14 A No, it wasn't.

15 Q And what about the Peninsula contract?

16 A No, it wasn't.

17 Q Now at the time of this January 5th, 2021 meeting, had the
18 IBU received a counterproposal to its November 23rd MOU?

19 A No.

20 Q Now Mr. Skow, in your role as regional director, have you
21 requested information from Westoil in the past?

22 A Yes, I have.

23 Q I'd like to show you what's been marked for identification
24 as General Counsel's Exhibit 38. It's an email and referenced
25 attachment consisting of -- the attachment consisting of one

1 page sent to Brian Vartan. I want to direct your attention
2 to -- or I'd like for you to flip through the email thread
3 and -- to the third page of the exhibit, the letter. Do you
4 recognize this letter on the third page?

5 A Yes, I do.

6 Q And what -- what is it?

7 A It's an informational request sent to Brian Vartan on
8 January 12th, 2021.

9 Q Why did you send this letter?

10 A After the January 5th, 2021 Zoom meeting, I felt like we
11 needed more information on this asset, and the -- and the
12 Glencore sale. Or the Glencore -- transfer of work to
13 Glencore, because we wanted to -- we needed more information.

14 MS. YASSERI: I'd like to move for the admission on
15 General Counsel's Exhibit 38 at this time.

16 JUDGE SANDRON: Okay. Any objection?

17 MR. HILGENFELD: No objection.

18 JUDGE SANDRON: General Counsel's Exhibit 38 is received.

19 **(General Counsel Exhibit Number 38 Received into Evidence)**

20 Q BY MS. YASSERI: Now Mr. Skow, do you recall receiving a
21 response to this January 12th, 2021 information request?

22 A Yes.

23 Q We're going to talk about that response in a few minutes,
24 but at this time I'd like to show you another exhibit. It's
25 been marked for identification as General Counsel's Exhibit 39.

1 It's an email thread between you and Brian Vartan dated January
2 12th, 2021, through January 20th, 2021. And it consists of two
3 pages. Now I want to direct your attention to the middle of
4 page 2, to an email from Mr. Vartan dated January 18th, 2021,
5 stating that he was working on a response to the IBU's request
6 for information. Do you recall receiving these email
7 communications that are part of this exhibit?

8 A Yes.

9 MS. YASSERI: We're going to come back and talk about
10 these in a few minutes. At this time, I'd like to move for the
11 admission of GC Exhibit 39.

12 MR. HILGENFELD: No objection.

13 JUDGE SANDRON: Okay. The document is received.

14 **(General Counsel Exhibit Number 39 Received into Evidence)**

15 Q BY MS. YASSERI: Now Mr. Skow, going back to your January
16 12th, 2021 information request, after you sent that letter, did
17 you discuss the Glencore con -- contract with anybody from
18 Centerline and/or Westoil?

19 A Yes.

20 Q And when was that?

21 A I received a phone call on -- it was January 13th, 2021.

22 Q From who?

23 A From Mr. Houghton.

24 Q Okay. And do you recall the -- the time?

25 A I have to say it was, like, around after lunch.



1 Q And how did that conversation start with Mr. Houghton over
2 the phone that day?

3 A Mr. Houghton, he let me know that -- that we were going
4 down to one tugboat and two barges. He also told me that the
5 deckhand classification and the third man classification was
6 the two things that were keeping us from retaining the Glencore
7 contract.

8 Q Was this the first time that the IBU was informed that the
9 third man classification and the deckhand classification on the
10 barge would be the difference to getting -- retaining the
11 Glencore contract?

12 A Yes.

13 Q Okay. You mentioned that Mr. Houghton said during this
14 call that you'd be down to one tugboat and two barges. Did he
15 explain why?

16 A I don't recall why. I was -- I was under the impression,
17 because the work was getting transferred to another subsidiary.

18 Q When you say the "work," you mean the Glencore work?

19 A Yes. Glencore work.

20 Q Now --

21 JUDGE SANDRON: He didn't actually say that -- he didn't
22 actually say that it's the reason?

23 THE WITNESS: No. I -- I perceived it as that was the
24 reason why.

25 Q BY MS. YASSERI: Now, Mr. Skow, what was your

1 understanding of what was being proposed by Centerline and
2 Westoil regarding the third man classification? What -- what
3 were they seeking there?

4 A I believe they were seeking to eliminate that
5 classification.

6 Q And what makes you have that understanding?

7 A Because over the -- over the years, it's always been --
8 the company's always had an interest in eliminating the third
9 man. It's an added crewing cost that they wanted to eliminate.

10 JUDGE SANDRON: Have they -- have they stated that in the
11 past? Or directly? Or was that your impression?

12 THE WITNESS: See, I don't recall that it -- I don't
13 recall if it came up in prior negotiations. I -- I just
14 can't --

15 JUDGE SANDRON: All right.

16 THE WITNESS: -- place that, but that would -- that would
17 be my impression, sir.

18 JUDGE SANDRON: All right.

19 Q BY MS. YASSERI: Okay. Can you just explain for us, under
20 the collective bargaining agreement at that point in time, what
21 was the requirement regarding the third man classification?

22 A The -- the contract clause states that the company will
23 endeavor to put on a third man on barges larger than 45,000
24 barrels, auto ships, and I believe it's -- another clause in
25 there. I'm -- I quite can't remember right now.

1 Q Okay. And -- and when there's a reference to third man,
2 that would be in addition to, like, a tankerman and a deckhand
3 on the barge?

4 A Yes.

5 Q What was your understanding of what was being proposed by
6 Centerline and Westoil regarding the deckhand classification?

7 A How I took that was elimination of the deckhand
8 classification. Going to one-man barges.

9 Q Now, once Mr. Houghton shared this information with you
10 during that phone call on January 13th, 2021, what -- did you
11 respond? And what did you say?

12 A I told them I would have to get back -- I would have to
13 get back to them or pass that information on to Jay Ubelhart,
14 because at the time, I was in the middle of going to urgent
15 care. And I knew I was going to be in urgent care for a while
16 and I wasn't going to be able to get back to them that day,
17 probably.

18 Q Okay. Did Mr. Houghton respond when she told them that?

19 A He said, "John, go take care of yourself."

20 Q Do you recall Mr. Houghton saying anything else during
21 that phone call?

22 A No. I don't recall.

23 Q Do you recall if Mr. Houghton said anything about a
24 deadline?

25 A Yes.

1 Q And what do you recall?

2 A He did mention a deadline that we would have to get back
3 to him by the end of the day.

4 Q Was it your understanding it was the end of the business
5 day?

6 A That's how I took it, yes.

7 JUDGE SANDRON: Well, is that based on prior practice or
8 how did you base it?

9 THE WITNESS: Yes, sir. Yes. I always base everything
10 end of the business day.

11 JUDGE SANDRON: And what time does the business day to
12 your understanding?

13 THE WITNESS: For me, 5:00.

14 Q BY MS. YASSERI: Do you recall anything else, Mr. Skow,
15 from this conversation with Mr. Houghton?

16 A No. I do not.

17 Q Do you recall bringing up the subject of labor costs
18 during this discussion?

19 A Oh, yes. I asked Doug if that equated to the thirteen
20 percent labor cost that he had given -- given me prior. And he
21 said, "yes."

22 Q When you say "it", are you referring to the third man
23 classification and deckhand classification?

24 A Yes.

25 Q Do you recall anything else, Mr. Skow, regarding this



1 conversation with Mr. Houghton?

2 A I don't recall.

3 Q Was the Minerva contract discussed during this call?

4 A I don't recall.

5 Q What about the Peninsula contract?

6 A I have to answer, I don't recall.

7 Q How long did this phone call with Mr. Houghton last that
8 day?

9 A I would have to say it lasted anywhere between 10 and 15
10 minutes, if that. Maybe -- maybe 10 minutes. It -- it wasn't
11 long. I was trying to get him off the phone so I could go to
12 the doctor.

13 Q Now, at the time of this conversation on January 13th,
14 2021, with Mr. Houghton, had the IBU received a counter
15 proposal to its November 23rd MOU?

16 A No.

17 Q Okay. What, if anything, Mr. Skow, did you do -- or did
18 the IBU do after learning for the first time that the third
19 hand -- third man classification and the deckhand
20 classification on the barge would be the difference to
21 retaining the Glencore contract?

22 A Well, the next day, I had discussions with the job
23 stewards, in the -- Jay Ubelhart, our national president. I
24 had discussion with them over that. I know Jay was talking to
25 Doug Houghton also in my absence. And so we were all talking,

1 trying to determine if we wanted to put together something for
2 the company. And it was kind of hard because, you know, we
3 were trying to get everybody together and that. It -- it was
4 kind of challenging because trying to get everybody in the same
5 room, get them all in the same meeting. But we got some people
6 one day, next day, you know, it was -- it was just -- it was
7 difficult, but we eventually we got everybody's opinion on it.

8 Q And after your call with Mr. Houghton on January 13th,
9 what was your understanding of the status of Westoil's bid, for
10 the work that covered work for Glencore?

11 A I -- I still had to take the position that it was still
12 being transferred at that time.

13 Q Okay. Yeah. Why -- why did you believe that, Mr. Skow?

14 A Because we never sat down and got anything agreed with the
15 company, that the -- that -- get that work back. As far as I
16 know, that it was going to be going to Olympic Tug & Barge last
17 time they told me.

18 Q Did your phone call with Mr. Houghton have an impact on
19 that position? Your phone call with him on January 13th, 2021
20 where he told you the deckhand classification and the third man
21 classification would be the difference?

22 A Well, I -- I took that in a way, also, that there may be
23 still a chance that we have a shot at this.

24 Q Now, did you end up documenting your conversations with
25 Mr. Houghton on January 13th, 2021?

1 A Yes, I did.

2 Q And how did you do that?

3 A I did it in a letter correspondence.

4 Q Okay. Mr. Skow, I'd like to show you what's been marked
5 for identification as General Counsel's Exhibit 40. It's an
6 email and reference attachment. Do you recognize this email
7 and -- and attachment?

8 A Yes.

9 Q Okay. And what is it?

10 A It's a letter that I wrote to Mr. Houghton. Basically,
11 it's documenting our phone conversation on Wednesday, January
12 13th, 2021.

13 Q And why did you decide to send this letter?

14 A I wanted to document that conversation moving forward.

15 MS. YASSERI: Okay. I'd like to move for the admission of
16 GC Exhibit 40 at this time.

17 JUDGE SANDRON: Any objections?

18 MR. HILGENFELD: No objection.

19 JUDGE SANDRON: Okay. The document is received.

20 **(General Counsel Exhibit Number 40 Received into Evidence)**

21 Q BY MS. YASSERI: Now, Mr. Skow, did you have any
22 conversations with anyone at the IBU after you emailed this
23 letter to Mr. Houghton on the -- on January 14th, 2021?

24 A Yes. With the stewards and National President Jay
25 Ubelhart.

1 Q What -- what did you discuss with them?

2 A We sat down and we discussed what -- what Mr. Houghton had
3 said. We wanted to see if we can -- if we can put something
4 together to -- something in a -- in a form of a goodwill
5 proposal.

6 Q Now, --

7 JUDGE SANDRON: Well, you mean -- this may be coming up,
8 but did you -- did Mr. Houghton ever respond when you sent him
9 this letter? Did he respond back to you?

10 THE WITNESS: No. He did not respond back to me on this.

11 Q BY MS. YASSERI: Now, Mr. Skow, after your January 13th,
12 2021 phone call with Mr. Houghton, did you have any follow-up
13 discussions with him about the Glencore contract?

14 A Yes.

15 Q And when was that?

16 A It was the evening of -- it was a Friday. It was January
17 15th, 2021.

18 Q And where did this conversation take place?

19 A I called Mr. Houghton.

20 Q And how did the conversation start?

21 A I asked Mr. Houghton if he would consider taking a -- a
22 goodwill proposal from us. From the IBU.

23 Q What did he say?

24 A He told me that it was late. That Centerline had already
25 made a decision. We were supposed to get back to him. I

1 explained to him that, unfortunately, I couldn't get back to
2 him right away because I had some -- I was -- I was sick at the
3 time. And I responded back to him as soon as I could. I know
4 he was talking to Jay Ubelhart. I don't know what -- I know
5 they had a conversation and we would -- I just wanted him to
6 consider taking a proposal. I was just -- I tried to talk him
7 into it, you know? Because we wanted to try to save our -- you
8 know, save our work.

9 Q What else do you recall Mr. Houghton saying during this
10 phone call?

11 A Mr. -- after hearing me out, he -- he agreed to meet with
12 us the next day. But he -- but he said that he couldn't
13 promise us anything.

14 Q How did the phone call end with Mr. Houghton?

15 A That I was going to -- I don't know. I can't remember. I
16 can't recall who send -- who was going to send who the Zoom
17 link. I believe I did. I sent him a Zoom link for us to meet
18 that very next day.

19 Q And how long did that phone call last with Mr. Houghton on
20 January 15th, 2021?

21 A Anywhere -- around ten minutes probably.

22 Q And did you end up meeting with him the next day, on the
23 16th of January?

24 A Yes, we did.

25 Q I believe you testified you had -- were going to send a

1 Zoom link. So it was a Zoom meeting?

2 A Yes, it was.

3 Q And who was present on behalf of the IBU at this meeting?

4 A It was myself, national President Jay Ubelhart, and our
5 job stewards and Ricky Gomez, Mike Zuanich, Nolan Padilla, and
6 Cris Sogliuzzo -- Sogliuzzo.

7 Q And who was present on behalf of Westoil and Centerline at
8 this meeting?

9 A It was Mr. Houghton and Kelly Moore.

10 Q Who's Kelly Moore?

11 A Kelly Moore is -- he's a vice president, I think of gulf
12 (phonetic throughout) -- of the gulf operations. Gulf.

13 Q For which entity?

14 A For Centerline Logistics.

15 Q And as best as you can recall, how did this meeting start?
16 Who spoke up first and what did they say?

17 A I did.

18 Q What did you say?

19 A I reiterated to Doug again that we wanted to give him a
20 goodwill offer and that. But before we did so, my job stewards
21 had a lot of questions for him.

22 Q Did Mr. Houghton respond once you made that statement at
23 the meeting?

24 A I don't recall if he responded. He was listening to us,
25 basically.

1 Q What -- what happened next as best as you know?

2 A The job stewards were asking a lot of questions. They
3 were asking questions in the form of previous information
4 request questions that we sent. I can recall them asking a lot
5 of those questions. They just wanted to get general
6 information about what was going on moving forward. They asked
7 questions as, if we give you a goodwill proposal, do we have a
8 chance at the Chevron work? Can we --

9 Q Do you recall if Mr. Houghton responded to that question?

10 A Mr. Houghton said that he would take a look at what we had
11 to offer but he wasn't going to promise us anything.

12 Q Okay. I'm sorry, Mr. Skow, just to follow up, you
13 mentioned Chevron -- is it Chevron or Glencore that had come up
14 during this --

15 A It was Chevron.

16 Q Chevron?

17 A Yep.

18 Q Okay. Was the -- did Glencore ever come up at this
19 meeting?

20 A I don't think so. It may have. I -- I don't recall.

21 Q Do you recall anything else being discussed at this
22 meeting?

23 A What we left the meeting off as, we were going to --
24 myself and the job stewards were going to get together and work
25 on a -- a supposal and email it back to Mr. Houghton later on

1 that evening.

2 Q Okay. What do you mean by "supposal"?

3 A A supposal is a term that I've learned when I was a
4 regional director from a fellow colleague. We sit down and we
5 put ideals on paper and go back and forth with the company.
6 When we think we're close on something, it -- it can be a real
7 hard topic, that's why I call it a supposal. So we go back and
8 forth until we get close. When we think we're close, then we
9 put it on the form of a proposal. We put it in writing. We
10 put in on paper and give it to them.

11 JUDGE SANDRON: So is that subproposal?

12 THE WITNESS: Supposal.

13 JUDGE SANDRON: Oh, S-U-P-P.

14 THE WITNESS: Like a -- yeah. Suppose we do this; suppose
15 we do that.

16 JUDGE SANDRON: Oh, I see. Okay. New term. All right.

17 THE WITNESS: Yeah.

18 JUDGE SANDRON: Thank you.

19 THE WITNESS: I know. I thought it was kind of neat
20 myself.

21 JUDGE SANDRON: You coined a new word.

22 Q BY MS. YASSERI: Now, Mr. Skow, do you recall anything
23 else from this meeting?

24 A Well, that's all I recall.

25 Q Did Mr. Houghton give you a deadline to submit something

1 to him?

2 A No, he did not.

3 Q How long did this meeting last on the 16th of January,
4 2021?

5 A I say it was close to an hour.

6 Q Now, at the time of this meeting on January 16th, had the
7 IBU received a counter proposal to its November 23rd MOU?

8 A No.

9 Q Okay. What -- what did you do after this meeting on the
10 16th?

11 A I got together with my job stewards and we did the process
12 of putting together a supposal.

13 Q Mr. Skow, I'd like to show you what's been marked for
14 identification as GC Exhibits 41 and 42. For efficiency
15 they're being presented collectively, but we'll sort of go
16 through each one individually. Directing your attention to GC
17 Exhibit 41, do you recognize this document?

18 A Yes, I do.

19 Q And -- and what is this?

20 A This is the supposal that we sent to Mr. Houghton.

21 Q And how did you send this supposal to Mr. Houghton?

22 A We submitted via email. It was an email address.

23 Q I'd like to direct your attention to GC Exhibit 42. It's
24 an email thread between you and Doug Houghton, dated January
25 16th, 2021, to January 19th, 2021. It's single page with the

1 January 16th email appearing to attach the supposal. You
2 recognize this email thread?

3 A Yes, I do.

4 Q And the supposal that's referenced in GC 41, is that the
5 one that was attached to this email from you from January 16th,
6 2021, to Doug Houghton?

7 A Yes, it was.

8 Q I want to direct your attention, Mr. Skow, to GC Exhibit
9 41. To the first sentence on that page regarding the third
10 man, what was the IBU proposing there?

11 A We were given the company the discretion to use the third
12 man on the barge.

13 Q Okay. And just for clarity, what was the -- the
14 requirement prior to this at that time?

15 A That the company can endeavor to use the third man.

16 Q Prior to this supposal, was there a requirement, with
17 respect to the company, having to use the third man?

18 A Yeah. Yes. There is a harbor safety committee rule on a
19 certain amount of long tons, where they got to put an extra guy
20 on board. This would -- I mean, this would -- it kind of gave
21 them the -- the latitude not to use it if they so choose.

22 JUDGE SANDRON: So when it says company direction, that's
23 also -- could be considered company discretion?

24 THE WITNESS: Yes.

25 JUDGE SANDRON: And the Union was ready to agree to that?

1 THE WITNESS: Yes.

2 Q BY MS. YASSERI: And then what about the proposal
3 regarding the -- the deckhands, Mr. Skow? What was that about?

4 A Okay. That was on barge manning. Our -- when the --
5 we were okay with this. That was kind of a heartache with the
6 Union there, because we -- we always wanted to be safety minded
7 when you're working on an oil barge. We really had a heartache
8 with having one person on a barge, but on -- on the other side
9 of this, they do do it in certain areas, so we took that into
10 consideration. When the -- we would agree to the having a one
11 tankerman on board if a tug would stay alongside during the
12 whole evolution when the tug was bumping off. We were going to
13 agree to that.

14 If the tankerman needed help on any evolution, he would
15 have the discretion to use the boat engineer who was on the
16 boat. But if the tug departed, we didn't want to leave the
17 tankerman out there by himself, so we would ask the company to
18 put a deckhand on board to assist the tankerman.

19 JUDGE SANDRON: And when it said -- penalties grew degrees
20 to waive moving forward, was that the Union's agreement that
21 that would be stopped at a certain point?

22 THE WITNESS: Yes. We were agreeing to waive -- waive any
23 penalties moving forward, because we couldn't do nothing about
24 what was going back. But we were going to agree to that.

25 JUDGE SANDRON: What -- what about the wage proposal? Was

1 that going to be a cost saving to the company? Or was that
2 just another proposal that you were making?

3 THE WITNESS: That was -- that was a proposal that we were
4 making for a three-year extension on top of what was currently
5 enforced.

6 JUDGE SANDRON: Had there been any discussion of wage
7 increases before this?

8 THE WITNESS: No, sir.

9 JUDGE SANDRON: And what about the last two -- you know,
10 for business, "all Westoil IBU members man all new push tugs."
11 And then the second one, "man all new Chevron barges." What --
12 could you explain what those meant?

13 THE WITNESS: We wanted -- we wanted to be able to man all
14 the new push tugs. Westoil. All Westoil IBU members. We
15 wanted to be able to have all those jobs on the push tugs and
16 we wanted to have all the -- all the work of the Chevron
17 barges.

18 JUDGE SANDRON: So -- so these last three provisions
19 basically were what the Union was asking for, not -- not
20 necessarily what the company was looking at as far as cost
21 savings?

22 THE WITNESS: Yes. We figured that, I mean, they would
23 get the cost savings -- cost savings on the -- on the deck hand
24 and on the meal penalties and on the third man.

25 JUDGE SANDRON: So these were terms that the Union was

1 requesting in exchange basically?

2 THE WITNESS: Yes.

3 Q BY MS. YASSERI: Mr. Skow, the supposal reflected in GC
4 Exhibit 41, how did that address the concerns that were
5 expressed by Mr. Houghton on January 13th, 2021?

6 A I would have to say it -- it didn't fully eliminate the --
7 the third man on the barge in the -- the deck hand
8 classification, but it was a starting point for us. Not saying
9 that we wouldn't agree to eliminate both of them if we further
10 negotiated. This was our first attempt at a supposal to pass
11 at them.

12 Q But in the supposal, you were giving the company the
13 discretion to --

14 A Yes.

15 Q -- (indiscernible). I'm sorry.

16 JUDGE SANDRON: So it was basically a counterproposal type
17 thing?

18 THE WITNESS: Yeah. This was our -- well, I -- at this
19 time, I would call it our -- our goodwill starting proposal.

20 JUDGE SANDRON: Goodwill starting proposal?

21 THE WITNESS: Yeah. Suppose we do this.

22 JUDGE SANDRON: Your supposal?

23 THE WITNESS: And suppose it back to us, please.

24 Q BY MS. YASSERI: Now, Mr. Skow, at the time that you
25 submitted this supposal on behalf of the IBU, on January 16th,

1 2021, had the IBU received a counterproposal to its November
2 23rd MOU?

3 A No.

4 Q Okay.

5 JUDGE SANDRON: Maybe we can just -- you might be getting
6 to this later, but just in case, I'll ask it -- did you ever
7 get a response from that MOU? Ever? You know, any time that
8 you can remember?

9 THE WITNESS: Just that one email response that was --
10 came back from Brian Vartan that said this does not help us.

11 Q BY MS. YASSERI: Mr. Skow, do you recall following up with
12 Mr. Houghton regarding the supposal that you emailed him on
13 January 16th, 2021?

14 A Yes.

15 JUDGE SANDRON: Did you offer these documents?

16 MS. YASSERI: I was just -- I was just about to until I --

17 JUDGE SANDRON: Oh, I see.

18 MS. YASSERI: -- asked this question. So --

19 Q BY MS. YASSERI: Now, Mr. Skow, directing your attention
20 to GC Exhibit 42, to an email dated January 19th, 2021, from
21 you to Doug Houghton; is this the email where you followed up
22 about the supposal?

23 A Yes.

24 Q Did you ever receive a response from Mr. Houghton?

25 A No. I did not.



1 Q Did you receive a response from anyone at Westoil?

2 A Yes, I did.

3 Q And who was that?

4 A That was Brian Vartan.

5 MS. YASSERI: At this time, Your Honor, I'd like to move
6 for the admission of General Counsel's Exhibit 41 and 42.

7 JUDGE SANDRON: Mr. Hilgenfeld?

8 MR. HILGENFELD: No objection.

9 JUDGE SANDRON: They are received.

10 **(General Counsel Exhibit Numbers 41 and 42 Received into**
11 **Evidence)**

12 Q BY MS. YASSERI: I'd like to direct your attention, Mr.
13 Skow, to an exhibit that should already be before you: General
14 Counsel's Exhibit 39. It's already been admitted into
15 evidence, and it's a two-page email thread. I want to focus
16 your attention on the first page, to an email dated January
17 19th, 2021, from Mr. Vartan to you, at the bottom of the first
18 page. Mr. Vartan references Westoil's operations. Were you
19 expecting a response from Mr. Vartan regarding Westoil's
20 operations at that time?

21 A No.

22 Q And why not?

23 A Because I was communicating with Mr. Houghton.

24 Q And Mr. Vartan, in his email, references that he'll have a
25 response for you the following day. Do you recall if he sent

1 you a response the following day?

2 A Yes.

3 Q I'd like to show you, Mr. Skow, what's been marked for
4 identification as General Counsel's Exhibit 43. It's an email
5 dated January 20th, 2021, from Brian Vartan to you, referencing
6 an attachment with the email, an attachment consisting of five
7 pages. Do you recognize this email and attachment?

8 A Yes, I do.

9 Q I want to direct your attention, Mr. Skow, to the letter
10 which is on the third page of Exhibit (audio interference)
11 second paragraph on -- on the first page of that letter. I'm
12 sorry, to the third paragraph where it says, "We had several
13 meetings and correspondences in November and December (audio
14 interference) on the ways for the membership to run more
15 efficiently. The Union did nothing with this information." Is
16 that accurate?

17 A No.

18 Q And why not?

19 A Because we -- we gave -- we proposed an MOU in November
20 for the company, and we also (audio interference) supposal on
21 the 16th.

22 MS. YASSERI: I'd like to move for the admission of
23 General Counsel's Exhibit 43 at this time.

24 MR. HILGENFELD: No objection.

25 JUDGE SANDRON: Document is received.

1 **(General Counsel Exhibit Number 43 Received into Evidence)**

2 MS. YASSERI: At the --

3 MR. HILGENFELD: Counsel? Sorry to interrupt. I just
4 noticed that Mr. Skow's personal cell phone (indiscernible).

5 MS. YASSERI: Okay. We would have a version that was
6 (audio interference). Thank you, Mr. (audio interference).

7 JUDGE SANDRON: We could do it on the formal. I'll just
8 cross it out on mine. In -- in the formal documents -- in the
9 formal exhibit, we'll have it redacted.

10 MS. YASSERI: Thank you.

11 (Counsel confer)

12 JUDGE SANDRON: Just to make it clear, you -- you had a
13 phone conversation on January 13th -- this is Doug Houghton,
14 correct?

15 THE WITNESS: Yes.

16 JUDGE SANDRON: So was that addressed in this letter from
17 Mr. Vartan -- I -- I just wanted to see because he talks about
18 you stating certain communications. So was he, in this letter,
19 disputing on Mr. Houghton's behalf what you had said in your
20 letter to Mr. Houghton about what you and he had discussed? I
21 just want to -- and we get a lot of dates here and a lot of
22 conversations.

23 THE WITNESS: Yes. That's how I took it.

24 JUDGE SANDRON: So indirectly, then, they disputed what
25 you said?

1 THE WITNESS: Yes.

2 JUDGE SANDRON: Mr. Houghton did, indirectly?

3 THE WITNESS: Yes.

4 JUDGE SANDRON: Okay.

5 Q BY MS. YASSERI: Mr. Skow, at the time of receiving this
6 letter from Mr. Vartan on January 20th, 2021, had the IBU
7 received a counterproposal to its November 23rd MOU?

8 A No.

9 Q At the time of receiving this letter from Mr. Vartan on
10 January 20th, 2021, had the IBU received a counterproposal to
11 its January 16th, 2021 supposal?

12 A No.

13 Q What, if anything, did you do, Mr. Skow, after you
14 received this letter from Mr. Vartan?

15 A I dropped it up in information request.

16 Q Speaking of information request, I want to go back a
17 little bit to GC Exhibit 39. At the top of the first page,
18 it's an email from you from January 20th to Mr. Vartan. Is
19 this the email where you followed up on your January 12th
20 information request?

21 A Yes, it was.

22 Q Do you recall receiving a response to that information
23 request?

24 A Yes, I did.

25 Q I'm showing you, Mr. Skow, what's been marked for

1 identification as General Counsel's Exhibit 44. Do you
2 recognize this document?

3 A Yes.

4 Q And what is it?

5 A It's an answer to my informational demand from January
6 12th, 2021.

7 MS. YASSERI: Okay. I'd like to move for the admission of
8 GC Exhibit 44 at this time.

9 JUDGE SANDRON: Any objection?

10 MR. HILGENFELD: No objection.

11 JUDGE SANDRON: The document is received.

12 **(General Counsel Exhibit Number 44 Received into Evidence)**

13 MS. YASSERI: Your Honor, I know Counsel had indicated,
14 perhaps, taking a break. This might be a good point to do
15 that. I'm going to transition to another topic if Counsel
16 needs the break.

17 JUDGE SANDRON: All right. We can take a -- let's see --
18 it's about 2:45. We -- we can come back at 3 then.

19 MR. HILGENFELD: Thank you.

20 JUDGE SANDRON: We'll go off the record.

21 (Off the record at 2:44 p.m.)

22 JUDGE SANDRON: Back on the record.

23 **RESUMED DIRECT EXAMINATION**

24 Q BY MS. YASSERI: Mr. Skow, prior to the break, we had
25 talked about the topic of information requests. I'd like to

1 show you what has already been admitted into evidence as
2 General Counsel's Exhibit 45, which is -- it's a letter dated
3 February 1st, 2021, and then, a second letter dated February
4 17th, 2021. For purposes of efficiency, these letters and
5 attachments, consisting of 23 pages, are included together as
6 one exhibit. I want to direct your attention to the first page
7 of the exhibit. Do you recognize this letter dated February
8 1st, 2021?

9 A Yes.

10 Q Did you send this letter to Mr. Vartan?

11 A Yes, I did.

12 Q And did you receive a response to this information
13 request?

14 A Yes.

15 Q I want to direct your attention to page 2 of this exhibit,
16 to this letter dated February 17th, 2021. Did you -- do you
17 recall receiving this letter and -- and the attachments to this
18 letter that are within this exhibit?

19 A Yes.

20 Q And is this February 17th, 2021 letter from Mr. Hathaway
21 the response that you received to your February 1st, 2021
22 information request?

23 A Yes.

24 Q And how do you recall receiving this response?

25 A It either went to my email or to our Union Hall email.

1 Q Let's -- let's talk a little bit now about the attachments
2 to this information request. I want to direct your attention
3 to page 5 of the exhibit to a letter of acknowledgement dated
4 October 16th, 2020. And it appears to have been sent by Mr.
5 Vartan to Ms. Jennifer Beckman. Prior to submitting this
6 letter of acknowledgement on October 16th, 2020, had Westoil
7 informed the IBU that the Glencore contract was put up for bid
8 among Centerline subsidiaries as part of this bid process?

9 A No.

10 Q I want to direct your attention, Mr. Skow, to page 6 of
11 this exhibit. It's an email from Brian Vartan to Jennifer
12 Beckman dated October 23rd, 2020. Do you know what this email
13 is about?

14 A A bid submittal.

15 Q Do you know if this bid submittal covered work that the
16 IBU bargaining unit employees at Westoil had been performing
17 for Glencore?

18 A It appears.

19 Q Had Westoil informed the IBU about its submission of this
20 bid on October 23rd, 2020, at any time prior to submitting this
21 bid on October 23rd, 2020?

22 A No.

23 Q As of October 23rd, 2020, when Westoil submitted its bid
24 to Centerline and Harley Marine Financing, did Centerline
25 notify the IBU that Westoil had submitted a bid for work which

1 included work for Glencore?

2 A No.

3 Q As of October 23rd, 2020, when Westoil submitted its bid
4 to Centerline and Harley Marine Financing, did Harley Marine
5 Financing notify the IBU that Westoil had submitted a bid for
6 work which included work for Glencore?

7 A No.

8 Q Now, I want to direct your attention, Mr. Skow, to page 12
9 of the exhibit. It's another email from Brian Vartan to
10 Jennifer Beckman, dated October 27th, 2020. Do you know what
11 this October 27th email is about?

12 A It appears to be an updated bid submittal.

13 Q Had Westoil informed the IBU about its submission of this
14 updated bid on October 27th, 2020, at any time prior to
15 submitting this bid on October 27th, 2020?

16 A No.

17 Q As of October 27th, 2020, when Westoil submitted its
18 updated bid to Centerline and Harley Marine Financing, did
19 Centerline notify the IBU that Westoil Marine Services had
20 submitted a bid for work which included work for Glencore?

21 A No.

22 Q As of October 27th, 2020, when Westoil submitted its
23 updated bid to Centerline and Harley Marine Financing, did
24 Harley Marine Financing notify the IBU that Westoil Marine
25 Services had submitted a bid for work which included work for

1 Glencore?

2 A No.

3 Q I want to direct your attention, Mr. Skow, to page 18 of
4 the exhibit. It's the third email from Brian Vartan to
5 Jennifer Beckman dated November 13th, 2020. Do you know what
6 this November 13th email is about?

7 A It's a -- a bid submittal.

8 JUDGE SANDRON: No, it says --

9 THE WITNESS: Oh, wait a minute.

10 JUDGE SANDRON: Go ahead.

11 THE WITNESS: It's a response to build -- bid submittal.

12 JUDGE SANDRON: That is a term (indiscernible) it says all
13 accruing cost have been fully burdened. Do you know what that
14 means? If you -- if you know?

15 THE WITNESS: I do not.

16 JUDGE SANDRON: All right.

17 THE WITNESS: I don't know what that term is.

18 JUDGE SANDRON: Because that also appears on the next
19 page, as well, but we don't know what it is. (Indiscernible)
20 don't guess.

21 Q BY MS. YASSERI: Mr. Skow, were you aware that Westoil had
22 submitted an amended bid for work which included work for
23 Glencore on November 13th, 2020, prior to November 13th, 2020?

24 A No.

25 Q Okay. As of November 13th, 2020, when Westoil submitted

1 its bid to Centerline and Harley Marine Financing, did
2 Centerline notify the IBU that Westoil had submitted a bid for
3 work which included work for Glencore?

4 A No.

5 Q As of November 13th, 2020, when Westoil submitted its
6 updated bid to -- to Centerline and Harley Marine Financing,
7 did Harley Marine Financing notify the IBU that Westoil Marine
8 Services had submitted a bid for work which included work for
9 Glencore?

10 A No.

11 Q When was the first time that you found out about Westoil's
12 submission of the November 13th, 2020 bid?

13 A It's when I received these informational -- these
14 documents here.

15 Q And when was that?

16 A February 17th, 2021.

17 Q And -- I'm sorry, just to go back -- same question --
18 sorry, let me just rephrase. Prior to receiving these emails
19 and documents on February 17th, 2021, did you have any
20 knowledge that Westoil had submitted an initial bid on October
21 23rd, 2020, an updated bid on October 27th, 2020, and an
22 amended bid on November 13th, 2020.

23 MR. HILGENFELD: Objection, compound.

24 MS. YASSERI: I can break it up, Your Honor.

25 JUDGE SANDRON: I believe it's already been asked and

1 answered as to understanding that Westoil submitted a bid.

2 Indeed, that Westoil submitted a bid and been unsuccessful in
3 November.

4 MS. YASSERI: I would just like clarity on the record with
5 respect to when Mr. Skow found this information out, Your
6 Honor.

7 JUDGE SANDRON: Go ahead.

8 MS. YASSERI: Thank you.

9 Q BY MS. YASSERI: Mr. Skow, prior to receiving these
10 emails --

11 JUDGE SANDRON: You can put it all in one question. If
12 you received notice ahead of time of any of those, then, you
13 can ask him in one question.

14 Q BY MS. YASSERI: Mr. Skow, did you receive notice of
15 either the October 23rd, the October 27th, or the November
16 13th, 2020 bid submissions from Westoil prior to February 17th,
17 2021?

18 A No.

19 Q Mr. Skow, did anyone at Centerline or Harley Marine
20 Financing notify the IBU prior to putting up the Glencore
21 contract up for bid among Centerline subsidiaries?

22 A Can you repeat that question again, please?

23 Q Did anyone at Centerline or Harley Marine Financing notify
24 the IBU prior to putting up the Glencore contract up for bid
25 among Centerline subsidiaries?

1 A If I understand the question right, it was during the Zoom
2 meeting on November 6th.

3 Q Okay. I believe you testified that at that meeting, you
4 were told that the contracts had been put up for bid; is that
5 right? By Centerline and Harley Marine Financing?

6 MR. HILGENFELD: Objection, leading.

7 JUDGE SANDRON: Which -- he testified about that meeting
8 earlier, right?

9 MS. YASSERI: Yes.

10 JUDGE SANDRON: Was that the meeting where he didn't, at
11 the time, recall Centerline --

12 MS. YASSERI: No.

13 JUDGE SANDRON: That was a different one?

14 MS. YASSERI: No, Your Honor. That was the Novem -- I'm
15 sorry, I believe that was the November 25th meeting.

16 JUDGE SANDRON: Okay, that was a different one. So -- so
17 your question on this --

18 MS. YASSERI: My -- my question is if anyone at Centerline
19 or Harley Marine Financing notified the IBU prior to actually
20 putting up those con -- the Glencore contract up for bid among
21 Centerline subsidiaries? Or did you -- or did he learn after
22 the fact; after they had already been put up for bid?

23 JUDGE SANDRON: Well, I think you can ask that -- I think
24 it's probably been on the record, but if you want to just
25 confirm it or clarify it, go ahead. Maybe -- maybe you can

1 simplify it a little bit?

2 MS. YASSERI: Okay.

3 Q BY MS. YASSERI: Mr. Skow, when did you first learn that
4 the Glencore contract had been put up for bid among Centerline
5 subsidiaries?

6 JUDGE SANDRON: That's fine.

7 A It was the November 6th Zoom meeting (indiscernible).

8 Q BY MS. YASSERI: Did anyone at Centerline or Harley Marine
9 Financing notify the IBU when the invitation to tender putting
10 up the Glencore contract up for bid was issued to Centerline
11 subsidiaries including Westoil?

12 A Please repeat.

13 Q Let me direct your attention to -- Mr. Skow, do you know
14 what the invitation to tender is?

15 A I believe it is an invitation to make a bid.

16 Q I'd like to show you a document that's been already
17 admitted into evidence; that is General Counsel's Exhibit 33.
18 I want to direct your attention to the second page of the
19 exhibit to the -- to letter of invitation dated October 14th,
20 2020. Did anyone at Centerline or Harley Marine Financing
21 notify the IBU prior to October 14th, 2020, when the Glencore
22 contract had been put up for bid among Centerline subsidiaries?

23 A No.

24 Q Did Centerline and/or Harley Marine Financing inform the
25 IBU about bids that it had received regarding work in the L.A.

1 Long Beach Harbor that included work for Glencore?

2 A Can you repeat the question.

3 Q Did Centerline or Harley Marine Financing inform the IBU
4 about bids that it had received regarding work in L.A. Long
5 Beach Harbor that included work for Glencore?

6 A No.

7 Q When did the IBU first become aware of any of the cost
8 information included in the Westoil bids?

9 A When we received the information request on February 17th,
10 2021.

11 Q I want to direct your attention, Mr. Skow, back to GC
12 Exhibit 45. And specifically to page 21 of that exhibit. It's
13 a letter that was sent from Jennifer Beckman to Brian Vartan
14 dated December 9th, 2020.

15 A December 9th, 2020.

16 JUDGE SANDRON: The last page of the document.

17 THE WITNESS: Okay. Sorry. Okay.

18 Q BY MS. YASSERI: Had you seen this letter prior to
19 receiving it from Westoil as part of its February 17th, 2021
20 information request response?

21 A No.

22 Q And when was the IBU first informed that the Glencore work
23 had been awarded to another company other than Westoil?

24 A On that phone call on December 28th, 2021 with -- from Mr.
25 Houghton.

1 Q Did you mean 2020?

2 A 2020, yes.

3 Q Mr. Skow, did anyone at Centerline or Harley Marine
4 Financing inform you that the Minerva and Peninsula contracts
5 were also initially awarded to Olympic Tug & Barge on December
6 9th, 2020?

7 MR. HILGENFELD: Objection. Leading. Also
8 mischaracterizes the evidence.

9 JUDGE SANDRON: You're not re -- how is it misleading?

10 MR. HILGENFELD: Well, it's misle -- misleading because
11 he's testified -- I think it is a leading --

12 JUDGE SANDRON: Leading.

13 MR. HILGENFELD: -- question because it infers the answer.
14 It's also misleading because that is not accurate
15 representation of the testimony that's in the evidence.

16 MS. YASSERI: Maybe we can have this discussion outside
17 the presence of Mr. Skow. But I believe there is evidence that
18 supports this question based on prior testimony in the record.

19 JUDGE SANDRON: So you're saying if the leading objection
20 is obviated, there would still be the misleading -- maybe the
21 witness can just wait outside for a moment, and we could
22 just -- okay. The witness is out of the room.

23 MS. YASSERI: Thank you, Your Honor.

24 JUDGE SANDRON: Yes.

25 MS. YASSERI: I believe Mr. Godden testified that he had



1 initially made the decision to award all of the L.A. Long Beach
2 work to Olympic Tug & Barge, and that the decision was later
3 changed in January to have Westoil retain the Minerva and
4 Peninsula contracts. So I --

5 MR. HILGENFELD: That --

6 MS. YASSERI: That's why I'd like to ask this question.

7 MR. HILGENFELD: That's inaccurate.

8 JUDGE SANDRON: How are you -- what is your --

9 MR. HILGENFELD: I --

10 JUDGE SANDRON: -- recollection?

11 MR. HILGENFELD: This was part of the bid process, and the
12 bid goes into acceptable or unacceptable bid range. No
13 decision was made on any contracts until January. In the
14 middle of -- middle to end of January is when Glencore was
15 awarded. No -- Mr. Godden never made a decision to award
16 Minerva or Peninsula.

17 MS. YASSERI: Well, the December 9th letter that was
18 issued to Olympic Tug & Barge contradicts Mr. Hilgenfeld's
19 representation about no decision being made at the time.

20 MR. HILGENFELD: It -- it --

21 MS. YASSERI: The letter states that Olympic --

22 JUDGE SANDRON: Wait, wait.

23 MS. YASSERI: -- Tug & Barge was awarded the work.

24 MR. HILGENFELD: It does not. It says they were the
25 winning bid. It does not mean in the bid -- in --

1 JUDGE SANDRON: All right. Well --

2 MR. HILGENFELD: -- in the bid for that -- it does not
3 mean whatever it's going to go. Mr. Godden also testified they
4 went through this bid process later and issued similar letters
5 in a second bid process. As part of their bid process to
6 ensure that the companies remained competitive, they would
7 issue these bid periodically for Harley Marine Financing. This
8 does not mean that work is automatically going to be performed
9 by those companies.

10 JUDGE SANDRON: Well, maybe you can find the document
11 but --

12 MS. YASSERI: We're looking for the document --

13 JUDGE SANDRON: All right.

14 MS. YASSERI: -- Your Honor.

15 JUDGE SANDRON: Maybe you could find the document but if
16 it's not clear at this point then maybe you could rephrase
17 the -- the question to get around that dispute over Mr.
18 Godden's testimony.

19 MS. YASSERI: Your Honor --

20 JUDGE SANDRON: Do you want to show it to opposing
21 counsel?

22 MS. YASSERI: Counsel, do you have it? It's GC Exhibit
23 136.

24 MR. HILGENFELD: I mean, I -- I know what the award letter
25 says but the award letter is not awarding all the work.

1 They -- they went through three different regions. They had
2 this process a couple of different times. They're doing this
3 to check Mr. Godden went through that. They did not make
4 decision on Minerva and Peninsula, and to infer otherwise is
5 contrary to the evidence.

6 MS. YASSERI: I believe Mr. Godden testified that the bid,
7 the invi -- invitation to tender covered work in L.A. Long
8 Beach Harbor, and that covered the Glencore, Minerva, and
9 Peninsula contracts. And the language in this award letter
10 says your bid for Tug & Barge occurring in Los Angeles-Long
11 Beach was accepted due to pricing and crew matrix. Olympic Tug
12 & Barge is expected to start providing manning services to CLL
13 in this area on January 29th, 2021.

14 MR. HILGENFELD: And Mr. Godden testified that that did
15 not mean that all the contracts were going to be awarded to
16 them. In fact, the New York-Philadelphia was not awarded.
17 They had a second bid that was not awarded. The evidence says
18 that is not what was meant in this letter.

19 JUDGE SANDRON: Well, and your -- is there a dispute over
20 what Mr. Godden's testimony was or is it matter of interpreting
21 his testimony?

22 MR. HILGENFELD: I didn't think so but it appears that
23 way.

24 MS. YASSERI: It seems like we have a dispute. I mean,
25 all I would like to ask Mr. Skow is if anyone at Centerline or

1 HMF informed the IBU that the Minerva and Peninsula contracts
2 were initially awarded to Olympic Tug & Barge.

3 MR. HILGENFELD: And it mischaracterizes the evidence.
4 They were never initially awarded to Olympic Tug & Barge.

5 JUDGE SANDRON: Well, why don't you rephrase that. You
6 need to get around the --

7 MS. YASSERI: Okay.

8 JUDGE SANDRON: -- the -- the -- the -- maybe you can just
9 rework it. I mean, the -- I mean, the transcript's online. I
10 mean, there's a way to theoretically go into the transcript
11 and -- and see exactly what he said on that point, but I don't
12 know if we need to go to that effort. But there would be a way
13 to find out what his testimony was.

14 MS. YASSERI: Okay, Your Honor.

15 JUDGE SANDRON: And maybe you can just work around that.

16 MS. YASSERI: Okay.

17 JUDGE SANDRON: Do you -- do you want to get the witness
18 back in?

19 MS. YASSERI: Oh, yes.

20 JUDGE SANDRON: I think that would be a more efficient way
21 to approach it and then we could avoid having to take the time
22 to do that.

23 Well, I -- I don't know if you could ask him when he first
24 learned about those contracts being awarded.

25 MS. YASSERI: Okay. Yeah.

1 JUDGE SANDRON: And -- and that might just get around
2 the -- the question of dates.

3 Q BY MS. YASSERI: Mr. Skow, I'd like to show you a document
4 that's already admitted into evidence, that is GC Exhibit 136.
5 It's -- it's a letter dated December 9th, 2020, from Jennifer
6 Beckham to Sven Titland at Olympic Tug & Barge. Have you
7 ever -- have you seen this letter before?

8 A No, I have not.

9 Q Do you -- are you aware that this letter was sent to
10 Olympic Tug & Barge on December 9th, 2020?

11 JUDGE SANDRON: Well, he's never seen it before so I don't
12 think he'll be able to say.

13 MS. YASSERI: Okay.

14 JUDGE SANDRON: I mean, and the letter's been admitted.

15 Q BY MS. YASSERI: The -- the letter towards the bottom, Mr.
16 Skow, it refers to Olympic Tug & Barge's bid for Tug & Barge
17 crewing and Lo -- the Los Angeles and Long Beach being
18 accepted. When was the first time that you had learned that?

19 A I would have to go back to that December 28th phone call
20 with Mr. Houghton.

21 Q Okay. With respect to the Minerva contract that Westoil
22 worked under, at that period time, did you ever have any
23 conversations with anybody at Centerline or Harley Marine
24 Financing about the Minerva contract?

25 A No.

1 Q Same question with respect to Peninsula contract, did you
2 ever any conversations with anyone at Centerline or Harley
3 Marine Financing about the Peninsula contract?

4 A No.

5 Q Did you talk to anyone at the IBU about the information
6 that you had received in response to your February 1st
7 information request?

8 A Yes.

9 Q And who did you speak to?

10 A I shared the information with Mr. Ubelhart and my job
11 stewards.

12 Q And what was generally discussed regarding this response?

13 A I could -- with the job stewards, I recall a conversation
14 that we had -- well, hearing their -- their issues with the
15 information that I had shared with them, they were questioning
16 Mr. Vartan's experience with dealing with bids. They were
17 questioning that. And they were also questioning Ms. -- Ms.
18 Beckman, who was in charge of the bidding process. They --
19 they thought -- this is what they said. They said they thought
20 it was rigged because those two work close together in the
21 office. That was their concerns.

22 Q Okay. Now, Mr. Skow, in your role as regional director of
23 the southern California region of the IBU, do you file
24 grievances on behalf of Westoil bargaining unit employees?

25 A Yes, I do.

1 Q I'd like to show you what's been marked for identification
2 as General Counsel's Exhibit 46. Do you recognize this
3 document?

4 A Yes.

5 Q And what is it?

6 A It's a grievance that I filed on behalf of the Westoil
7 members in regards to the Glencore work being transferred to
8 Olympic Tug & Barge.

9 Q Who did you file this grievance -- this grievance number
10 2104 dated February 3rd, 2021; who did you file it with?

11 A I filed it with Brian Vartan.

12 Q And why did you file this grievance?

13 A I filed this grievance because I believe I had enough
14 information that lead me to believe that Westoil had violated
15 the collective bargaining agreement.

16 MS. YASSERI: I'd like to move for the admission of
17 General Counsel's Exhibit 46 at this time.

18 MR. HILGENFELD: No objection.

19 JUDGE SANDRON: The document is received.

20 **(General Counsel Exhibit Number 46 Received into Evidence)**

21 Q BY MS. YASSERI: Mr. Skow, did Brian Vartan respond to the
22 IBU regarding this grievance?

23 A Yes.

24 Q I'd like to show you what's been marked for identification
25 as General Counsel's Exhibit 47. Do you recognize this

1 document?

2 A Yes, I do.

3 Q Is this Mr. Vartan's response to grievance 2104?

4 A Yes, it is.

5 Q And what was your understanding of the -- of Westoil's
6 position with respect to this grievance 2104?

7 A They were time barring -- time -- time barred my
8 grievance.

9 MS. YASSERI: I'd like to move for the admission of
10 General Counsel's Exhibit 47 at this time.

11 JUDGE SANDRON: Any objection?

12 MR. HILGENFELD: No objection.

13 JUDGE SANDRON: It is received.

14 **(General Counsel Exhibit Number 47 Received into Evidence)**

15 Q BY MS. YASSERI: Mr. Skow, I'd like to show you what's
16 been already admitted into evidence as General Counsel's
17 Exhibit 48. It contains ten separate letters from Matt
18 Hathaway at Westoil addressed to you. If you could sort of
19 take your time and flip through each of those ten pages and let
20 me know if you recognize the letters.

21 A Yes, I recognize these letters.

22 Q The letters state that there was a reduction in force
23 under the advance layoff notice provision under the CBA and
24 that employees would be returned to the casual call list as of
25 March 1st, 2021. What is the casual call list?

1 A The casual call list is a -- a -- a list of employees who
2 are not on schedule but on a on-call basis.

3 Q And if you could sort of, again, flip through the letters.
4 Were these employees that were identified in each of these ten
5 letters ultimately laid off on March 1st, 2021? We can one by
6 one. The first one Chad Milikan?

7 JUDGE SANDRON: Well, I don't know. I think --

8 MR. HILGENFELD: The document speaks for itself. Unless
9 Mr. Houghton is --

10 JUDGE SANDRON: Is --

11 MR. HILGENFELD: -- Mr. Skow --

12 JUDGE SANDRON: Is there any dispute that -- that these
13 individuals were returned to the casual call list on March 1st?

14 MR. HILGENFELD: I'm not sure I can say that, Your Honor,
15 because I -- there may have been some pieces where people were
16 given notice and not eventually placed on the casual call list.
17 So I can't say that for certain. But this would've been the
18 letter that they did receive, I could say that.

19 JUDGE SANDRON: Do you -- I'll leave it up to the General
20 Counsel if you want to -- if he has personal knowledge of all
21 of the employees, he can say so.

22 MS. YASSERI: I'd like to just direct Mr. Skow's attention
23 to the third letter regarding Cris Sogliuzzo.

24 JUDGE SANDRON: Let me ask him one question.

25 There are ten letters here. Can you go -- do you know

1 personally whether all these individuals were returned to the
2 casual list on March 1st? And if there are any exceptions, you
3 can tell us which ones were not -- and is there -- do you know
4 all these individuals?

5 THE WITNESS: Yes, I do. I know all the individuals.

6 JUDGE SANDRON: And -- and how many of them were returned
7 to the casual list on March 1st?

8 THE WITNESS: I believe all of them except for one person
9 was.

10 JUDGE SANDRON: And who was that?

11 THE WITNESS: Cris Sogliuzzo.

12 Q BY MS. YASSERI: What happened with Mr. Sogliuzzo?

13 A We had a -- he was due to be laid off but what ended up
14 happening was one of the guys on the standard crewing resigned
15 and went to work for another company, therefore he was in line
16 to take his -- his schedule.

17 JUDGE SANDRON: I see. And -- and the other nine went on
18 the casual list?

19 THE WITNESS: Yes.

20 Q BY MS. YASSERI: Mr. Skow, is being moved to the casual
21 call list considered to be the same thing as being laid off?

22 MR. HILGENFELD: Objection. Calls for legal conclusion.

23 MS. YASSERI: I'll --

24 JUDGE SANDRON: I guess the -- the -- the -- the -- the
25 contract uses it sort of interchangeably, right? Because it

1 says advanced layoff notice for contract.

2 MR. HILGENFELD: In a different --

3 JUDGE SANDRON: But --

4 MR. HILGENFELD: In different pieces in the contract. At
5 one point --

6 JUDGE SANDRON: Right.

7 MR. HILGENFELD: -- it calls this an advanced lay off, at
8 another point --

9 JUDGE SANDRON: Right.

10 MR. HILGENFELD: -- it refers to different -- lay off in a
11 different manner.

12 JUDGE SANDRON: Well, I think we, you know, whatever the
13 terminology, I -- I think the affect is the same.

14 MR. HILGENFELD: We would disagree, Your Honor.

15 JUDGE SANDRON: You disagree.

16 MR. HILGENFELD: A lay off has a legal impact and their
17 employment status is put on hiatus.

18 JUDGE SANDRON: I see.

19 MR. HILGENFELD: A casual employee can work every day of
20 the month, they just simply don't have a definitive schedule
21 they know is going to come in.

22 JUDGE SANDRON: Is that evident --

23 MS. YASSERI: I -- I can reword the question, Your Honor.

24 JUDGE SANDRON: Okay.

25 MS. YASSERI: I -- I think it's important to get Mr.

1 Skow's understanding.

2 JUDGE SANDRON: Yes, go ahead.

3 MS. YASSERI: Yeah.

4 Q BY MS. YASSERI: Mr. Skow, what is considered a lay off?

5 MR. HILGENFELD: Objection. Calls for legal conclusion.

6 JUDGE SANDRON: Well, per contract.

7 MS. YASSERI: Yeah.

8 JUDGE SANDRON: That he can say, you know, per the
9 contract, what's considered a lay off?

10 THE WITNESS: A layoff is when you're taken off schedule.

11 JUDGE SANDRON: So that would include the change from a --
12 to a casual.

13 THE WITNESS: Yes, sir.

14 JUDGE SANDRON: All right.

15 THE WITNESS: That's how I perceive it.

16 Q BY MS. YASSERI: And I believe you've testified about this
17 earlier but just for clarity of the record. What's the
18 difference, Mr. Skow, between a scheduled employee and a casual
19 call list employee?

20 A A schedule employee has a guarantee of 180 hours per month
21 of work. A casual employee doesn't. The only guarantees that
22 he basically has is when he comes to work he has either a six-
23 hour call out or an eight-hour call out. And I think there's
24 some parts of the contract that may give you a certain
25 instances of four-hour call out. Those are the only guarantees

1 they have.

2 Q So there's no guarantee of hours for casuals?

3 A No. No guarantee.

4 Q Now, with respect to the employees that were identified in
5 these letters in GC Exhibit 48, the layoff letters, do you
6 know how Westoil selected these employees to be laid off?

7 A Yes.

8 Q How? How as it --

9 A They were laid off in seniority order as per the contract.

10 Q And do you know why there was a lay off?

11 JUDGE SANDRON: Well, I think it says in the -- in the
12 letter, doesn't it?

13 MS. YASSERI: Okay.

14 Q BY MS. YASSERI: Mr. Skow, GC 48, the letters refer to a
15 reduction in force. Do you know what that's about?

16 A Yes. It was about the transfer of work fr -- the transfer
17 of the Glencore work to another Centerline subsidiary.

18 Q Can you explain, Mr. Skow, how the loss of the Glencore
19 contract caused the loss of scheduled positions?

20 A Well, the -- the mechanism in the agreement is when
21 there's a lack of work then that reduces the standard crewing
22 levels and this what happened in this case.

23 Q Can you explain how the loss of the Glencore contract
24 caused the loss of available work hours for casual employees?

25 A How I can describe that is that when you add more people

1 to the casual list that have seniority, the bottom casuals, it
2 kind of pushes work away from them. It eliminates -- it kind
3 of li -- takes away from their work opportunities.

4 JUDGE SANDRON: Kind of -- kind of a chain effect?

5 THE WITNESS: Yes, sir.

6 Q BY MS. YASSERI: Now, the -- the -- if you know, the
7 casual employees, were they employed the same amount of hours
8 following this layoff?

9 MR. HILGENFELD: Objection. Foundation.

10 JUDGE SANDRON: Yeah. Would you -- would you have a way
11 to know that?

12 THE WITNESS: Could you repeat that question? I'm trying
13 to --

14 Q BY MS. YASSERI: The casual -- the employees who are on the
15 casual list after the lay off in -- on March 1st, 2021, do you
16 know if they worked around the same amount of hours following
17 the lay off?

18 A Some --

19 MR. HILGENFELD: I have the same -- same objection.

20 JUDGE SANDRON: Do we -- I assume there'd be a records, if
21 either counsel feels they're important, that -- that would
22 show, you know, definitively whether they had cut some hours or
23 how much. So I think that would be a better way of getting
24 that -- that information in the record because -- because I
25 don't believe the witness really has day-to-day personal

1 information about what's hap -- what happened.

2 MS. YASSERI: I think Mr. Skow has some general knowledge,
3 Your Honor.

4 JUDGE SANDRON: Well, he can testify -- he can give a
5 general, but I'm not sure that would be really the strongest
6 evidence.

7 MS. YASSERI: Understood.

8 JUDGE SANDRON: I don't know if either counsel is planning
9 to get that in the record but -- but anyway. If you want to
10 just, you know, get a general answer, that's fine. But we
11 would need probably more definitive evidence. But go ahead.

12 If you're aware personally.

13 THE WITNESS: I -- I was still stand by it -- it affects
14 the bottom --

15 JUDGE SANDRON: Okay.

16 THE WITNESS: -- of the casual list.

17 JUDGE SANDRON: All right.

18 Q BY MS. YASSERI: Now, Mr. Skow, prior to March 2021 --
19 prior to the March 2021 lay off, how many bargaining unit
20 employees were employed by Westoil?

21 A It was approximately 60.

22 Q I'm sorry.

23 JUDGE SANDRON: I'm --

24 Q BY MS. YASSERI: Was that 60?

25 A 60.

1 Q Okay.

2 A Six zero.

3 Q And out of those 60, how -- how many of those were
4 fulltime scheduled employees?

5 A At that time there were -- they had 22 people on schedule.

6 Q And then the remainder would be the casuals?

7 A Yes.

8 Q And then following the layoff, how many bargaining unit
9 employees were employed by Westoil?

10 MR. HILGENFELD: Objection. This characterizes the
11 evidence. Under the contract they remained employed by Westoil
12 even after.

13 JUDGE SANDRON: Maybe you can just --

14 MS. YASSERI: Okay.

15 JUDGE SANDRON: -- re -- rephrase it.

16 MS. YASSERI: I'll rephrase.

17 JUDGE SANDRON: Although I think we did have testimony
18 about this earlier, about how many employees there were before
19 the transfer, and how many after. But you know, we'd want to
20 make sure it's covered in the record. You can ask but I
21 believe we had some testimony about that earlier. Is that your
22 recollection as well?

23 MR. HILGENFELD: I'll be honest, Your Honor, that -- I
24 think that was a long time ago.

25 JUDGE SANDRON: All right.

1 MR. HILGENFELD: I don't have a clear recollection of it
2 one way or the other.

3 JUDGE SANDRON: All right. But go ahead.

4 MS. YASSERI: I can agree --

5 JUDGE SANDRON: Ask that.

6 MS. YASSERI: -- with Mr. Hilgenfeld, I know it's been a
7 while. So forgive me, Your Honor,

8 JUDGE SANDRON: That's all right. I -- I know we've gone
9 over a long period of time so it makes it a little more
10 difficult to remember exactly what was said on a particular
11 point. So go ahead.

12 MS. YASSERI: Okay.

13 Q BY MS. YASSERI: So Mr. Skow, fol -- following the layoff,
14 how many bargain unit employees were on the casual call list?

15 A On the casual call list following the layoff. Let's see.
16 Well, there was 20, there should've been 22 on -- oh. It went
17 to 12 scheduled people, so 48 people on the -- if I'm not
18 messing up my numbers here, but --

19 JUDGE SANDRON: Do --

20 A -- 48 people --

21 Q BY MS. YASSERI: 48 --

22 A -- casuals.

23 Q -- total?

24 A Yes.

25 Q Okay.

1 JUDGE SANDRON: Do -- so do casu -- do casual employees
2 stay on the casual list as long as, basically, they want to?
3 In other words, there -- there's not a point where they're --
4 they're just like told there's no work, you're off the casual
5 list?

6 THE WITNESS: No. They -- they can stay unless they don't
7 work a certain amount of hours. I believe in the contract
8 there's a -- they got to work at least 36 hours otherwise, but
9 they have to be offered a certain amount of hours too in order
10 for them to stay on the call list. And if they don't meet that
11 requirement, then they're -- they're taken off.

12 JUDGE SANDRON: Is that basically terminated, then?

13 THE WITNESS: Yes.

14 Q BY MS. YASSERI: I believe, Mr. Skow, you testified that
15 after the layoff, out of the 48, 12 of those were scheduled
16 positions; is that what you said?

17 A Yes.

18 JUDGE SANDRON: Okay. Do you know if any -- well, we're
19 talking about -- were any employees terminated not by their own
20 choice, if you know?

21 THE WITNESS: Well, after the layoff, I know some people
22 transferred over to the other subsidiary, and then there may --
23 there may been a couple that left to get other employment. And
24 the rest stuck around to see if they could make a living.

25 JUDGE SANDRON: I see.

1 THE WITNESS: Yeah.

2 JUDGE SANDRON: So as far as you know, nobody was actually
3 terminated by the company?

4 THE WITNESS: No. Unless they violated some type of
5 agreement in the contract.

6 JUDGE SANDRON: Policy or --

7 THE WITNESS: Yeah. That one clause I was telling you
8 about. We called it the 36-hour rule.

9 JUDGE SANDRON: Do you know if any -- do you have any
10 knowledge if anybody actually failed to meet that requirement?

11 THE WITNESS: Yes, there's one person --

12 JUDGE SANDRON: Who?

13 THE WITNESS: -- that I know of. A member by the name by
14 the name of Tim Wilder.

15 JUDGE SANDRON: W-I-L-D-E-R?

16 THE WITNESS: Yes, sir.

17 JUDGE SANDRON: Okay. And he -- so he didn't get enough
18 work?

19 THE WITNESS: Yes. He -- I'll be honest. He hadn't -- he
20 hadn't worked in a while, so --

21 JUDGE SANDRON: Oh.

22 THE WITNESS: -- and then the company just finally cut him
23 loose.

24 JUDGE SANDRON: I see.

25 THE WITNESS: Yeah.

1 Q BY MS. YASSERI: Mr. Skow, you testified that some
2 employees --

3 JUDGE SANDRON: But -- excuse me, one -- that was
4 before --

5 THE WITNESS: No, that was after the layoffs probably
6 within the last year, here.

7 JUDGE SANDRON: And had he been -- how long was -- well, I
8 don't want to get too -- into too many details, but how long
9 was he a casual employee before that, if you know? Before he
10 was let go?

11 THE WITNESS: I believe he's -- he was a casual employee
12 all -- all this time at Westoil. I don't believe he was ever
13 on schedule.

14 JUDGE SANDRON: And do you remember -- do you have any
15 idea how long he was employed as a casual?

16 THE WITNESS: I -- I do not, sir.

17 JUDGE SANDRON: All right. Makes sense.

18 Q BY MS. YASSERI: You testified, Mr. Skow, that --

19 THE WITNESS: I should know.

20 JUDGE SANDRON: What's that?

21 THE WITNESS: I should know.

22 JUDGE SANDRON: Well, you can't remember everything.

23 Q BY MS. YASSERI: You testified, Mr. Skow, that some
24 Westoil employees had transferred to the other Centerline
25 subsidiary; which one was that?

1 A It was Leo Marine.

2 Q Now, Mr. Skow, how many tugs and barges did Westoil
3 operate before March 1st, 2021, on a regular basis, if you
4 know?

5 A Please repeat the question?

6 Q How many tugs and barges did Westoil operate before March
7 1st, 2021, on a regular basis, if you know?

8 A I don't -- I don't recall, but -- because they're always
9 moving, transferring equipment back and forth. I would be
10 guessing.

11 JUDGE SANDRON: All right. I think Mr. Sogliuzzo
12 testified about that earlier, and he had more -- I think he had
13 more first-hand direct knowledge. But in any event, the
14 witness doesn't -- doesn't know.

15 MS. YASSERI: Okay.

16 THE WITNESS: It's somewhere up there, but I can't spit it
17 out.

18 Q BY MS. YASSERI: Mr. Skow, I'd like to show you what's
19 been marked for identification as General Counsel's Exhibit 49.
20 Do you recognize this document?

21 A Yes, I do.

22 Q And what is it?

23 A I amended grievance 2104 because the company had created
24 inaction by laying off, so I amended the grievance to include
25 that.

1 Q And who did you file this grievance, dated February 26th,
2 2021, with?

3 A I believe I filed it with Matt Hathaway.

4 Q And why did you file it with Mr. Hathaway?

5 A Because Mr. Brian Vartan had left the company.

6 Q Did you know where Mr. Vartan went at the time?

7 JUDGE SANDRON: All right. I know -- I think we have it
8 in the record.

9 MR. HILGENFELD: We definitely have that in the record.

10 JUDGE SANDRON: Yeah. I don't think we need to --

11 MS. YASSERI: I'd like to move for the admission of GC 49
12 at this time.

13 JUDGE SANDRON: Any objection?

14 MR. HILGENFELD: No objection.

15 JUDGE SANDRON: Document is received.

16 **(General Counsel Exhibit Number 49 Received into Evidence)**

17 Q BY MS. YASSERI: Now, Mr. Skow, did you meet with Westoil
18 over the union's amended grievance?

19 A Yes, we did.

20 Q And when was that?

21 A March 5th, 2021.

22 Q And where did this meeting take place?

23 A It took place over Zoom.

24 Q Do you remember the time of this meeting?

25 A I don't recall the time.



1 Q And who was present on behalf of the IBU at this meeting?

2 A It was myself -- I think there was a job steward -- I know
3 Cris Sogliuzzo was there. I'm not sure -- I'm not sure about
4 the other job stewards.

5 Q And who was present on behalf of Westoil Marine Services
6 at this meeting?

7 A It was Matt Hathaway, Marshall Novak, and Mr. Hilgenfeld.
8 Mr. Hilgenfeld.

9 Q Okay. And what your understanding of Mr. Hathaway's role
10 at Westoil at the time?

11 A I believe he was still, like, the dispatch operations
12 manager.

13 Q And what about Mr. Novak; what was his role at Westoil at
14 the time?

15 A My understanding of Mr. Novak was he was transitioning in
16 being a manager. I don't know his direct title.

17 Q How did this meeting on the 5th of March 2021 start?

18 A We went through -- basically, it was a grievance meeting,
19 and we went through each grievance to try to resolve it.

20 Q Do you recall grievance 2104 being discussed at this
21 meeting?

22 A Yes.

23 Q And what do you recall being discussed with respect to
24 2104?

25 A I was told that the company's position was that it was

1 still untimely.

2 Q Who said that at the meeting?

3 A Mr. Hilgenfeld.

4 JUDGE SANDRON: So was there any discussion on the merits,
5 or was it just basically procedural?

6 THE WITNESS: Just procedural. He just -- we still
7 consider it untimely.

8 Q BY MS. YASSERI: Do you recall anything else being
9 discussed at this meeting on March 5th, 2021?

10 A Just going through all the grievances, and we -- we did
11 end up in a discussion about the -- the -- the advanced layoff
12 notice, I believe. We had a discussion over that, and we had a
13 disagreement over it being -- if these layoff letters were
14 layoffs or were they taken off schedule, basically. That's
15 what I kind of remember.

16 JUDGE SANDRON: So what was the Union's position on that?

17 THE WITNESS: We -- we called it a layoff. Always have.

18 JUDGE SANDRON: And then -- and what was the company's
19 response to that?

20 THE WITNESS: The company's response is a reduction
21 from -- reduction of taken of schedule -- reduction of
22 schedule. Something to that effect.

23 JUDGE SANDRON: And who spoke for the company?

24 THE WITNESS: Mr. Hilgenfeld. So we did ask for something
25 in writing. We wanted to get it defined somehow in writing,

1 and we asked for that.

2 Q BY MS. YASSERI: Did you ever receive anything in
3 writing --

4 A No.

5 Q -- regarding the company's position on the layoff?

6 A No, we did not.

7 JUDGE SANDRON: You asked for something in writing about
8 it being -- their position, it being untimely?

9 THE WITNESS: No --

10 JUDGE SANDRON: Or something different?

11 THE WITNESS: We wanted -- we wanted the company's
12 definition of being -- what constitutes a layoff and what
13 constitutes taken off schedule. Something to that effect. It
14 was the steward's request.

15 Q BY MS. YASSERI: How did this meeting end, Mr. Skow?

16 A I don't recall how it ended. We just finished, basically.

17 JUDGE SANDRON: Were any further meetings scheduled?

18 THE WITNESS: No.

19 Q BY MS. YASSERI: Do you recall how long this meeting
20 lasted?

21 A No, I do not.

22 Q Do you recall -- Mr. Skow, do you recall receiving a
23 response from Westoil in writing regarding their position on
24 the IBU's grievance 2104?

25 A Yes.

1 Q I'd like to show you what's been marked for identification
2 as General Counsel's Exhibit 50. It's an email dated March
3 15th, 2021, from Matt Hathaway to you, and a letter dated March
4 22, 2021, from you to Mr. Hathaway, consisting of three pages.
5 For purposes of efficiency, these are included together as one
6 exhibit.

7 I want to direct your attention Mr. Hathaway's March 15th,
8 2020 email. What was this about?

9 A Basically, we asked Matt to put responses in writing, in
10 regards to all the grievances that we -- that we talked about
11 during that meeting.

12 Q And did that include grievance 2104?

13 A Yes.

14 Q Did you respond to Mr. Hathaway?

15 A Yes, I did.

16 Q And the letter, starting on page 2 and continuing on page
17 3, is that your response to Mr. Hathaway's March 15th, 2021
18 email about the pending grievances, including grievance 2104?

19 A Yes.

20 MS. YASSERI: I'd like to move for the admission of
21 General Counsel's Exhibit 50 at this time.

22 JUDGE SANDRON: So you're offering it basically only for
23 the portions dealing with grievance number 2104?

24 MS. YASSERI: Yes, Your Honor.

25 JUDGE SANDRON: Any objection?

1 MR. HILGENFELD: No objection, with that understanding.

2 JUDGE SANDRON: The document is received. With that
3 understanding.

4 **(General Counsel Exhibit Number 50 Received into Evidence)**

5 Q BY MS. YASSERI: Mr. Skow, I'd like to show you what's
6 been marked for identification as General Counsel's Exhibit
7 207. It's an email thread between Westoil employee Cris
8 Sogliuzzo, from July 25th, 2022, to August 3rd, 2022,
9 consisting of three pages. Do you recognize this email thread
10 on which you were carbon copied?

11 A Yes.

12 MS. YASSERI: I'd like to move for the admission of
13 General Counsel's Exhibit 207 at this time.

14 MR. HILGENFELD: We would object. It's not relevant to
15 anything we're dealing with, here.

16 JUDGE SANDRON: Take a look, here.

17 MS. YASSERI: Your Honor, it goes to single employer
18 status.

19 MR. HILGENFELD: It does not go to single employer status.

20 JUDGE SANDRON: All right. Let me take a look.

21 MS. YASSERI: Your Honor, it goes to Mr. Hilgenfeld's role
22 at Westoil Marine Services, with respect to labor relations.

23 MR. HILGENFELD: I'm outside counsel for Westoil labor
24 relations. That's not disputed. This email does not go to
25 that issue. There's testimony with Mr. Sogliuzzo extensively

1 about some of those issues, and if we have to call Mr.
2 Sogliuzzo back, that would be unfortunate because I don't think
3 that's in anybody's best interest. This is not relevant to
4 what's occurring.

5 JUDGE SANDRON: I don't know, can we get -- get a -- I
6 don't know -- can we get --

7 MS. YASSERI: Your Honor?

8 JUDGE SANDRON: Yes.

9 MS. YASSERI: The first email on the first page of the
10 exhibit, Mr. Hilgenfeld identifies himself as the management
11 rep, not as legal counsel. It's the last sentence of the first
12 paragraph of the email.

13 MR. HILGENFELD: That's because when you're dealing with
14 labor relations in a private sector, it is not the practice of
15 law. That's why Mr. Skow can negotiate --

16 JUDGE SANDRON: All right.

17 MR. HILGENFELD: -- a labor agreement. You're a
18 representative and a union representative. This was the
19 management representative.

20 MS. YASSERI: It's directly relevant --

21 JUDGE SANDRON: All right. Well --

22 MS. YASSERI: -- to labor relations.

23 JUDGE SANDRON: -- the -- obviously, as counsels know, the
24 matter of labor relations -- interrelated labor relations, is
25 one of the factors the board considers for single employer.

1 I'm not prepared at this point to make a conclusion on what
2 this shows, or whether it shows that, but potentially, it does.
3 So objection is overruled. General Exhibit 207 is received.

4 **(General Counsel Exhibit Number 207 Received into Evidence)**

5 Q BY MS. YASSERI: Mr. Skow, I'd like to show you what's
6 been marked for identification as GC Exhibit 208. It's an
7 email thread between Westoil employee Cris Sogliuzzo from July
8 25th, 2022, to August 4th, 2022, consisting of four pages. Do
9 you recognize this email thread on which you were carbon
10 copied?

11 A Yes.

12 MS. YASSERI: Your Honor, this is also -- this email
13 thread is a follow up email thread to GC Exhibit 207, so we
14 maintain that it's relevant. It goes to centralized control of
15 labor relations, regarding single employer status, and we seek
16 admission of this document.

17 JUDGE SANDRON: Well, we already have General Counsel
18 Exhibit 207 in the record. I'm not sure we need --

19 MR. HILGENFELD: And I'm acting as a representative for
20 Westoil in all of these matters. It doesn't go to Centerline
21 at all.

22 JUDGE SANDRON: All right. Well, again, I mean, you can
23 argue what the other document shows or doesn't show. But I
24 don't know if we need a further chain of emails and -- I mean,
25 207 is in the record, and I'll determine at a later point what

1 it shows. But do we need 208 as well?

2 MS. YASSERI: Well, 208 has a follow up communication from
3 Mr. Hilgenfeld, Your Honor, so for completeness, we request
4 that both exhibits be in the record.

5 JUDGE SANDRON: All right. Well, I'll admit it over
6 objection again, without making any determination at this point
7 of whether it goes to the issue of common labor relations. Mr.
8 Hilgenfeld can argue it doesn't at a later point, and I'll
9 decide.

10 **(General Counsel Exhibit Number 208 Received into Evidence)**

11 MS. YASSERI: Your Honor, I believe I'm almost complete.
12 May I just have a few minutes to look at my notes?

13 JUDGE SANDRON: Yes. Mind if we go off the record?

14 MS. YASSERI: Please. Thank you.

15 JUDGE SANDRON: Off the record.

16 (Off the record at 4:03 p.m.)

17 JUDGE SANDRON: Back on the record.

18 Going back to 207, what -- where was it you said there was
19 something going to the issue of common labor relations? Wasn't
20 it on GC-207?

21 MS. YASSERI: Yes. It's with respect to Mr. Hilgenfeld's
22 role. He's identifying him -- on page 1 of the exhibit --

23 JUDGE SANDRON: Okay.

24 MS. YASSERI: -- first -- last sentence of the first
25 paragraph. He states that he'll be the management rep. To

1 here.

2 JUDGE SANDRON: Oh, I see.

3 MS. YASSERI: Concern expressed by Westoil employees.

4 MR. HILGENFELD: And it's the management rep for Westoil.

5 JUDGE SANDRON: All right, well -- okay. The parties can
6 argue what it means. Now, in the second, in 208, is there
7 anything additional on that?

8 MS. YASSERI: So --

9 JUDGE SANDRON: Or it's just a follow up to 207?

10 MS. YASSERI: It includes a follow up email from Mr.
11 Hilgenfeld dated August 4th, 2022.

12 JUDGE SANDRON: Does it add anything else as far as
13 centralized or common labor relations?

14 MS. YASSERI: Let's see here.

15 JUDGE SANDRON: I just --

16 MR. HILGENFELD: We would also object that this is
17 cumulative at this point, Your Honor.

18 MS. YASSERI: It also includes correspondence from Mr.
19 Sogliuzzo about -- questions about his assignment at work, in
20 which Mr. Hilgenfeld is responding too. So again, it goes to
21 labor relations.

22 JUDGE SANDRON: All right. Well, it's -- they're in the
23 record now. I'll determine later whether they -- you know, the
24 weight they should be worth.

25 MS. YASSERI: I have no further questions of Mr. Skow.

1 Thank you, Mr. Skow.

2 JUDGE SANDRON: Okay, this -- before we get to cross-
3 examination, I had mentioned to Mr. Wojciechowski, his role, as
4 a party representative. And I'm not sure that I did the same
5 for Ms. Derry.

6 So just, you know, Ms. Derry, as an attorney for a party,
7 you are entitled to participate in the proceeding, and that
8 includes asking questions of witnesses, objecting to questions,
9 and other roles that attorneys play during this proceeding.
10 And if you have no questions or you have nothing to add to what
11 the General Counsel is doing, then you can remain silent.
12 We'll assume that you're in agreement with the General Counsel.

13 MS. DERRY: Thank you, Your Honor. I -- I think I do have
14 a few questions for Mr. Skow when it's -- when it's
15 (indiscernible) turn.

16 JUDGE SANDRON: Yeah, so we'll let you ask those questions
17 now. And then if Mr. Wojciechowski has any questions, he can
18 do so. And then we'll determine when we should start cross-
19 examination.

20 MS. DERRY: Thank --

21 JUDGE SANDRON: Do you need to come up to be recorded.

22 MS. DERRY: Oh, okay. Thank you, Your Honor.

23 **DIRECT EXAMINATION**

24 Q BY MS. DERRY: Mr. Skow, earlier you were testifying about
25 the concept of casuals and how work is assigned. So I'm a

1 little confused. When -- when the Glencore work was taken away
2 from Westoil, what was -- was there any impact on the folks who
3 were already casuals?

4 A I would have to say yes.

5 Q And what was that impact?

6 A Like, I think I stated before, when you had more people to
7 the casual list, it kind of puts the bottom -- the bottom --
8 say, the last bottom ten people, for example, it pushes them
9 further down the list. Because the people who are on -- who
10 just got put on the casual list have higher seniority, and so
11 the work for the casuals are offered in seniority. And so that
12 kind of takes away their work opportunities.

13 Q I see. And going back to this morning, I believe there
14 was -- you testified about a November 25th meeting that you and
15 Mr. Vartan had?

16 A Yes.

17 Q And I believe there was a note in there about Centerline,
18 and you stated that you didn't remember what that was for, and
19 I'm just -- now that it's been several hours, do you have any
20 recollection about why you might have written Centerline on
21 those notes?

22 JUDGE SANDRON: Yeah, I don't --

23 MR. HILGENFELD: I'm going to object.

24 JUDGE SANDRON: -- I think that is not really a proper
25 question.

1 MS. DERRY: Okay. If -- yeah. Withdrawn. That -- I have
2 no further questions.

3 JUDGE SANDRON: And Mr. Wojciechowski, do you have any
4 questions of the witness?

5 MR. WOJCIECHOWSKI: Nothing from NLRB, thank you.

6 JUDGE SANDRON: All right.

7 It's now 4 -- about 4:15. I don't know, Mr. Hilgenfeld,
8 I'll leave it up to you if you want to start or begin cross-
9 examination tomorrow.

10 MR. HILGENFELD: Well, I presume there's a Jencks
11 statement?

12 MS. YASSERI: Yes.

13 MR. HILGENFELD: So I would like to see the Jencks
14 statement.

15 MS. YASSERI: Okay.

16 MR. HILGENFELD: And we'd like to see that, and then
17 that's going -- it's 4:15 now. I think you had said before you
18 want to get out of here by 4:30, so --

19 JUDGE SANDRON: Well, I could go a little later, but I
20 think --

21 MR. HILGENFELD: I don't think we're going to --

22 JUDGE SANDRON: -- sometimes it's better to not bifurcate
23 cross, you know. Especially if we're just starting it. Do
24 you -- in terms of the statements, I know there's a --
25 sometimes the General Counsel doesn't like to give the

1 statements overnight, but I'll leave it up to the General
2 Counsel. There's no hard and fast rule as such.

3 MS. YASSERI: Your Honor, our position has always been if
4 when we're finished with our examination and after Charging
5 Party counsel is finished with their examination, that we would
6 proffer the Jencks statements upon request. So we would be
7 happy to do that at this time.

8 JUDGE SANDRON: And let Mr. Hilgenfeld have them
9 overnight? That's --

10 MS. YASSERI: Yes.

11 JUDGE SANDRON: All right.

12 MR. HILGENFELD: Thank you.

13 JUDGE SANDRON: Did you want to state on the record the
14 affidavit or affidavits and dates and lengths?

15 MS. YASSERI: Yes, Your Honor.

16 Your Honor, at this time, the General Counsel proffers two
17 affidavits of Mr. Skow. The first one consists of 8 pages. It
18 was executed by Mr. Skow on March 22nd, 2021. And the second
19 affidavit -- excuse me. It consists of 16 pages, and it was
20 executed by Mr. Skow on June 16th, 2021. We will provide those
21 to Mr. Hilgenfeld at this time.

22 JUDGE SANDRON: Well, I think allowing Mr. Hilgenfeld the
23 opportunity to keep them overnight will -- you will be
24 expeditious as far as not taking undue time in the morning for
25 him to review them. So I think it -- that was a very wise

1 decision as far as moving the hearing along.

2 So why don't we then adjourn -- now I think the parties
3 had talked about stipulations, too, I don't know if you want
4 to --

5 MR. HILGENFELD: We can talk about that. I suspect
6 probably tomorrow morning is probably better to finish those.
7 I can give you my thoughts right now, and we can kind of go
8 through --

9 MS. YASSERI: Okay.

10 JUDGE SANDRON: Okay. That sounds like a good use of our
11 time tomorrow morning.

12 So we will then adjourn until 9:00 a.m. tomorrow.
13 Everybody have a good evening.

14 MS. YASSERI: Thank you, Your Honor.

15 JUDGE SANDRON: Off the record.

16 **(Whereupon, the hearing in the above-entitled matter was**
17 **recessed at 4:15 p.m. until Tuesday, January 24, 2023 at 9:00**
18 **a.m.)**

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C E R T I F I C A T I O N

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 21, Case Numbers 19-CA-273208, 19-CA-273220, 19-CA-273226, 19-CA-273-928, 19-CA-273985, 19-CA-273771, 19-CB-273986, 21-CA-273926, Leo Marine Services, Inc., Olympic tug & Barge, Inc., and Centerline Logistics Corporation and Olympic Tug & Barge, Inc. and Centerline Logistics Corporation and Leo Marine Services, Inc. and Centerline Logistics Corporation, Westoil Marine Services, Inc., and Harley Marine Financing, LLC, held at the National Labor Relations Board, Region 21, 312 N. Spring Street, Suite 10150, Los Angeles, California 90012-4701, on January 23, 2023, at 9:04 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.


JACQUELINE DENLINGER
Official Reporter

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:

Leo Marine Services, Inc., Case Nos. 19-CA-273208
Olympic Tug & Barge, Inc., and
Centerline Logistics
Corporation,

and

Olympic Tug & Barge, Inc., 19-CA-273220

and

Centerline Logistics 19-CA-273226
Corporation, 19-CA-273928

and

Leo Marine Services, Inc., 19-CA-273985

and

Centerline Logistics 19-CA-273771
Corporation, Westoil Marine
Services, Inc., and Harley
Marine Financing, LLC,

and

Seafarers International Union, 19-CB-273986

and

Inlandboatmen's Union of the
Pacific,

and



Centerline Logistics
Corporation, Leo Marine
Services, Inc., and Olympic Tug
& Barge, Inc.

21-CA-273926

and

International Organization of
Masters, Mates & Pilots, AFL-
CIO.

Place: Los Angeles, California

Dates: January 24, 2023

Pages: 2489 through 2657

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 21

<p>In the Matter of: LEO MARINE SERVICES, INC., OLYMPIC TUG & BARGE, INC., AND CENTERLINE LOGISTICS CORPORATION,</p>	<p>Case Nos. 19-CA-273208</p>
<p>and</p> <p>OLYMPIC TUG & BARGE, INC.,</p>	<p>19-CA-273220</p>
<p>and</p> <p>CENTERLINE LOGISTICS CORPORATION,</p>	<p>19-CA-273226 19-CA-273928</p>
<p>and</p> <p>LEO MARINE SERVICES, INC.,</p>	<p>19-CA-273985</p>
<p>and</p> <p>CENTERLINE LOGISTICS CORPORATION, WESTOIL MARINE SERVICES, INC., AND HARLEY MARINE FINANCING, LLC,</p>	<p>19-CA-273771</p>
<p>and</p> <p>SEAFARERS INTERNATIONAL UNION</p>	<p>19-CB-273986</p>
<p>and</p> <p>INLANDBOATMEN'S UNION OF THE PACIFIC</p>	
<p>and</p>	



21-CA-273926

CENTERLINE LOGISTICS
CORPORATION, LEO MARINE
SERVICES, INC., AND OLYMPIC TUG
& BARGE, INC.

and

INTERNATIONAL ORGANIZATION OF
MASTERS, MATES & PILOTS, AFL-
CIO

The above-entitled matter came on for hearing, via Zoom
videoconference, pursuant to notice, before **IRA SANDRON**,
Administrative Law Judge, at the National Labor Relations
Board, Region 21, 26 Federal Plaza, Room 36-130312 N. Spring
Street, Suite 10150, Los Angeles, California 90012-4701, on
Tuesday, January 24, 2023, 9:32 a.m.



1 A P P E A R A N C E S

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E X H I B I T SEXHIBITIDENTIFIEDIN EVIDENCE**Joint:**

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General Counsel:

GC-194

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GC-233

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GC-235

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GC-236

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GC-239

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GC-240

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GC-241

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GC-292

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Respondent:

R-125

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R-126

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R-317

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R-320

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1 P R O C E E D I N G S

2 JUDGE SANDRON: On the record. I understand that the
3 parties have reached stipulations of factual and documentary,
4 and I understand the General Counsel is going to present them.

5 MS. YASSERI: Yes, Your Honor. Thank you. The
6 Respondents and the General Counsel have stipulated that the
7 barge logs included in GC Exhibit 292 reflect tanker barge work
8 performed by Respondents LEO Marine Services, February 1st,
9 2021 through February 28th, 2021.

10 These barge logs represented all of the tanker barge work
11 that Respondent Leo Marine Services performed during this
12 period of time. The barge logs included in GC Exhibit 292
13 reflect work performed by Respondent Leo Marine Services in
14 Northern California and the San Francisco Bay area.

15 Although the barge logs refer to SMS-Starlight Marine
16 Services, the barge logs reflect the work of Respondent Leo
17 Marine Services which filed a corporate change of name with the
18 State of California on February 2nd, 2021.

19 In support of that factual stipulation, we also would like
20 to offer GC Exhibit 292.

21 JUDGE SANDRON: So Mr. Hilgenfeld, do you so stipulate to
22 what the General Counsel has said?

23 MR. HILGENFELD: We do, Your Honor.

24 JUDGE SANDRON: All right. The eval -- the document is
25 received as stipulated.

1 **(General Counsel Exhibit Number 292 Received into Evidence)**

2 MS. YASSERI: Thank you. Next, Your Honor, the
3 Respondents have agreed to stipulate to the admission of GC
4 Exhibit 233. It's the 2022 winter/spring edition of the
5 Centerline Headlines publication.

6 We offer Exhibit 233 into evidence at this time.

7 JUDGE SANDRON: Mr. Hilgenfeld, do you so stipulate?

8 MR. HILGENFELD: No objection, Your Honor.

9 JUDGE SANDRON: The document is received.

10 **(General Counsel Exhibit Number 233 Received into Evidence)**

11 MS. YASSERI: The next category of documents, Your Honor,
12 are what are entitled Centerline Notes to Financial
13 Performance. There's three separate exhibits that we'd like to
14 go through identified as GC Exhibits 194, GC Exhibit 239, and
15 GC Exhibit 240.

16 JUDGE SANDRON: 240.

17 MS. YASSERI: I understand there's no objection to the
18 authenticity of these documents, but Mr. Hilgenfeld takes issue
19 with a portion of each of these exhibits related to Centerline
20 Logistics, which is a named Respondent in this case.

21 JUDGE SANDRON: So which -- starting with 19- -- with 194,
22 what passages do you have an objection to?

23 MR. HILGENFELD: Certainly, Your Honor. So on the second
24 page that is in this one, it's the Centerline's consolidated --
25 we do not object to the consolidated piece. We do ask the

1 Court to redact the numbers. Consolidated forms are all
2 Centerline companies. That's exactly what a consolidated --

3 JUDGE SANDRON: All right.

4 MR. HILGENFELD: -- return is. The actual numbers of this
5 are -- have no relevance on this case, and we believe they're
6 highly prejudicial to the company. And so we would ask that
7 those be redacted on there.

8 The purpose, as I understand it from General Counsel, is
9 to show that Centerline actually has a consolidated profit loss
10 statement to begin with as a single employer issue. So the
11 numbers that go along with that consolidated profit loss are
12 simply not relevant to what this occurs. Consolidated profit
13 and loss statement includes a wide variety of Centerline
14 companies that goes beyond what's even at issue in this case.

15 JUDGE SANDRON: So Ms. Yasseri, do -- do the numbers on
16 page 2, do they have a bearing on the General Counsel's case?

17 MS. YASSERI: Your Honor, yes, we do -- we do -- we think
18 they do. We don't think that the data should be redacted on
19 any -- any financial statement that's offered into evidence or
20 else that financial statement loses its evidentiary value.

21 The data that's reflected shows activity by one of the
22 named Respondents. It's also a consolidated profit and loss
23 statement --

24 JUDGE SANDRON: Right.

25 MS. YASSERI: -- which includes the activity of

1 Respondents -- other respondents at issue on this case,
2 including Olympic Tug & Barge, Westoil, and Leo Marine
3 Services.

4 JUDGE SANDRON: Well --

5 MS. YASSERI: And I believe that position would be
6 consistent with your prior ruling regarding other financial
7 statements that are in the record.

8 JUDGE SANDRON: Were those put under seal, those?

9 MS. YASSERI: Yes.

10 JUDGE SANDRON: That would be an alternative.

11 MR. HILGENFELD: Well, we -- we do appreciate it being
12 under seal. We still don't believe --

13 JUDGE SANDRON: All right.

14 MR. HILGENFELD: -- those numbers have relevance. In
15 fact, I would add on this because it's a consolidated return,
16 it does not include all the companies. So these numbers have
17 no meaning as it relates to Westoil because it includes a wide
18 variety of other companies as well.

19 JUDGE SANDRON: All right. Well, I think because we don't
20 know at this point how relevant or irrelevant certain figures
21 in the document will be, I will not redact any portions.

22 However, if Mr. Hilgenfeld, you would like it to be placed
23 under the seal, that can be done.

24 MR. HILGENFELD: We would ask that it's placed under seal,
25 Your Honor.

1 JUDGE SANDRON: All right. And it will be placed under
2 seal.

3 MR. HILGENFELD: Thank you.

4 MS. YASSERI: And I'm sorry, Your Honor. Just for
5 clarity, that --

6 JUDGE SANDRON: Excuse me .

7 MS. YASSERI: -- would be GC Exhibit --

8 JUDGE SANDRON: Wait one second.

9 MS. YASSERI: Oh.

10 JUDGE SANDRON: Let's not go too fast here. This is 194.
11 Okay. Let's go a little -- let's not go too fast here. So 194
12 is under seal, or w-ill be placed under seal.

13 **(General Counsel Exhibit Number 194 Received into Evidence)**

14 JUDGE SANDRON: Okay. The next one?

15 MS. YASSERI: Is Exhibit 239. They are notes --

16 JUDGE SANDRON: Excuse me.

17 MS. YASSERI: - for financial performance related to the
18 December 2019 --

19 JUDGE SANDRON: I think we're --

20 MS. YASSERI: -- period of time.

21 JUDGE SANDRON: -- getting too many documents together.
22 Let's go slower here. So okay. This is 239.

23 MS. YASSERI: GC Exhibit 239.

24 JUDGE SANDRON: All right. And this one is? And what
25 does this represent?

1 MS. YASSERI: This also includes relevant information
2 regarding L.A. and bunkering activity for Respondent Westoil
3 Marine Services --

4 JUDGE SANDRON: Let me see.

5 MS. YASSERI: -- and Olympic Tug & Barge. It also
6 includes information regarding Centerline.

7 JUDGE SANDRON: And Mr. Hilgenfeld?

8 MR. HILGENFELD: We understand Your Honor's ruling on the
9 numbers piece. We have an ongoing objection --

10 JUDGE SANDRON: All right.

11 MR. HILGENFELD: -- as to the numbers. I would highlight
12 with this one --

13 JUDGE SANDRON: Yes?

14 MR. HILGENFELD: -- this financial review occurred in
15 20- -- December 2019. This was a year before the issues at
16 merit that -- things that occurred a year before are not
17 relevant to this proceeding.

18 JUDGE SANDRON: I see.

19 MR. HILGENFELD: So we would have a relevancy objection on
20 that ground as well.

21 JUDGE SANDRON: All right. All right. Your objections
22 are noted. You wish this also to be placed under seal?

23 MR. HILGENFELD: Please, Your Honor.

24 JUDGE SANDRON: Okay. It will be so done.

25 **(General Counsel Exhibit Number 239 Received into Evidence)**

1 JUDGE SANDRON: And I think we are General Counsel's
2 Exhibit 240, which it seems to be related to the financial
3 records. Let's see. That would actually be the same as
4 General Counsel's Exhibit 194 but a year earlier.

5 MR. HILGENFELD: Two years earlier, Your Honor.

6 JUDGE SANDRON: Two years. Well, 194 is dated December
7 2021. I guess that is for -- is that the 2022? No. It can't
8 be. This one, General Counsel's 194, says December 2021. So
9 that was from the year, I assume. And then --

10 MS. YASSERI: For 2021, yes.

11 JUDGE SANDRON: Right. And 240 is for the year 2020.

12 MR. HILGENFELD: It's not -- these are not yearly.

13 JUDGE SANDRON: Oh. They're not?

14 MR. HILGENFELD: They're not yearly financial reports.
15 They're --

16 JUDGE SANDRON: I see.

17 MR. HILGENFELD: -- not necessarily produced every month,
18 but they do produce them periodically throughout the year.

19 JUDGE SANDRON: I see.

20 MR. HILGENFELD: So if you look at it, it will be, as with
21 most balance and income statements, it will have that month,
22 and then it will also have year-to-date information on there.

23 JUDGE SANDRON: Oh. And this one, do you -- you have the
24 same objections as to 194, or anything different? Because I
25 think they're both called notes of financial performance. This

1 one, you have relevance as well?

2 MR. HILGENFELD: On GC-239 --

3 JUDGE SANDRON: Right.

4 MR. HILGENFELD: -- we have relevance as well.

5 JUDGE SANDRON: Right.

6 MR. HILGENFELD: This occurred a year before the issues at
7 hand in this case.

8 JUDGE SANDRON: Well, I think we already dealt with 239
9 and you mentioned that. 240?

10 MR. HILGENFELD: Oh. Sorry.

11 JUDGE SANDRON: Yeah.

12 MR. HILGENFELD: I apologize, Your Honor.

13 JUDGE SANDRON: No. I'd think I -- we already noted
14 your --

15 JUDGE SANDRON: No. 240, same objection, Your Honor.

16 JUDGE SANDRON: As to -- well, actually, I think for 194
17 you didn't raise relevancy, just raised the issue -- well, you
18 raised the relevance of the figures.

19 MR. HILGENFELD: Correct.

20 JUDGE SANDRON: And --

21 MR. HILGENFELD: My objections to -- my objections -- I'll
22 be more articulate. My objections to GC-240 are the same that
23 I raised to GC-194.

24 JUDGE SANDRON: Okay.

25 MR. HILGENFELD: The numbers in the consolidated report

1 are not relevant because they provide a wide variety of
2 answers. I understand your ruling --

3 JUDGE SANDRON: All right.

4 MR. HILGENFELD: -- on that. I'd just like to make it for
5 the record, and then we would ask it be put under seal as well.

6 JUDGE SANDRON: All right. Yeah. That will be done. So
7 194, you're only objecting to the one part of the document
8 which is -- are the figures in the, I think, second page or so.
9 And -- and then on 239, you have an overall relevance objection
10 because of the date?

11 MR. HILGENFELD: We've had an objection to the relevancy
12 on all the numbers throughout.

13 JUDGE SANDRON: All right.

14 MR. HILGENFELD: But yes, Your Honor.

15 JUDGE SANDRON: Well, do you want to just make it an
16 objection to relevance on all three?

17 MR. HILGENFELD: Yes, Your Honor.

18 JUDGE SANDRON: All right.

19 MR. HILGENFELD: Might as well.

20 JUDGE SANDRON: All right. We'll consider that you object
21 on relevance to all three. And you have a specific objection
22 on relevance regarding page 2 of GC-194 and page 3 of General
23 Counsel's Exhibit 240.

24 MR. HILGENFELD: Yes, Your Honor.

25 JUDGE SANDRON: All right. As noted on the record, those

1 documents have all been received and will be placed under seal.

2 **(General Counsel Exhibit Number 240 Received into Evidence)**

3 MS. YASSERI: Thank you, Your Honor.

4 MR. RIMBACH: So next, we have what's marked as GC Exhibit
5 235. It's a Moss Adams audit report dated May 31st, 2022. My
6 understanding is that the Respondents do not object to the
7 admission of this document. It's partially redacted. A copy
8 was distributed by email when we were last on the record, so I
9 only have two physical copies.

10 JUDGE SANDRON: I think that's -- oh. Here we are. Mr.
11 Hilgenfeld, is that a correct statement of your position?

12 MR. HILGENFELD: It is, Your Honor.

13 JUDGE SANDRON: Okay. The document is received.

14 **(General Counsel Exhibit Number 235 Received into Evidence)**

15 MR. RIMBACH: Up next, we have a copy of Centerline's
16 federal and state tax returns for the year 2020. My
17 understanding is that the Respondents do not object but request
18 that this exhibit be admitted under the protective order.

19 JUDGE SANDRON: 873 pages? Okay.

20 MR. RIMBACH: Yes, Your Honor.

21 JUDGE SANDRON: Is that correct, Mr. Hilgenfeld?

22 MR. HILGENFELD: That is correct. I would also ask, Your
23 Honor, I apologize. On the audit report, we would ask that
24 that be placed under seal as well.

25 MR. RIMBACH: And I apologize. I meant to mention that.

1 JUDGE SANDRON: Okay. Then Exhibit -- General Counsel's
2 Exhibit 23- -- is that 236 -- will be received and placed under
3 seal.

4 **(General Counsel Exhibit Number 236 Received into Evidence)**

5 MR. HILGENFELD: Thomas, was that tax return --

6 JUDGE SANDRON: I think it's --

7 MR. HILGENFELD: -- for 2021?

8 JUDGE SANDRON: -- 236, isn't it?

9 MS. YASSERI: Yes. Yes.

10 MR. RIMBACH: Oh. Sorry. And just for the record, GC
11 Exhibit 235, that will be under the protective order as well,
12 Your Honor?

13 JUDGE SANDRON: Yes.

14 MR. RIMBACH: Thank you. Next is GC Exhibit 241, which is
15 Centerline's tax return for 2021. My understanding is, again,
16 that the Respondent does not object to this exhibit being
17 admitted but would like it admitted under the protective order
18 as well.

19 JUDGE SANDRON: Is that correct?

20 MR. HILGENFELD: That is correct, Your Honor.

21 JUDGE SANDRON: It will be subject to the protective order
22 and placed under the seal.

23 **(General Counsel Exhibit Number 241 Received into Evidence)**

24 MR. RIMBACH: Also, just for the record, the General
25 Counsel has subpoenaed the federal and state tax returns for

1 Centerline, Harley Marine Financing, Westoil Marine Services,
2 Olympic Tug & Barge, and Leo Marine Services for 2020 and 2021.

3 My understanding is that the Respondents have only
4 provided in response to those subpoena requests what are GC
5 Exhibits 236 and 241, which are the Centerline tax returns for
6 Centerline and its subsidiaries. And there are no other
7 responsive documents.

8 JUDGE SANDRON: Is that your representation?

9 MR. HILGENFELD: I would reframe it a little bit, Your
10 Honor.

11 JUDGE SANDRON: All right.

12 MR. HILGENFELD: I would reframe it that all the
13 Respondents received the subpoena request --

14 JUDGE SANDRON: Right.

15 MR. HILGENFELD: -- from the General Counsel.

16 JUDGE SANDRON: Right. I recall.

17 MR. HILGENFELD: GC-236 is a complete tax return for the
18 year 2020 for all of the Respondents.

19 JUDGE SANDRON: Okay.

20 MR. HILGENFELD: GC-241 is a complete tax return for 2021
21 for all the Respondents.

22 JUDGE SANDRON: So there are no additional documents as --
23 responsive to the subpoena, to your knowledge?

24 MR. HILGENFELD: Related to the tax returns, correct, Your
25 Honor.

1 JUDGE SANDRON: Okay. I see.

2 MR. RIMBACH: I can read the subpoena request into the
3 record --

4 JUDGE SANDRON: Well --

5 MR. RIMBACH: -- if that helps, but --

6 JUDGE SANDRON: Well, as long as there's no question that
7 what you subpoenaed has been supplied as far as to what exists,
8 then there's no -- no --

9 MR. HILGENFELD: GC-236 --

10 JUDGE SANDRON: -- need to go through it.

11 MR. HILGENFELD: -- and GC-241 --

12 JUDGE SANDRON: All right.

13 MR. HILGENFELD: -- are complete tax returns --

14 JUDGE SANDRON: All right.

15 MR. HILGENFELD: -- for the Respondents.

16 MR. RIMBACH: And just for the record, no further
17 documents were produced in response to our requests for state
18 and federal tax returns for each of those five respondents for
19 the years 2020 and 2021.

20 JUDGE SANDRON: But would there be any other tax returns
21 if -- if all of the respondents are covered by those exhibits?

22 MR. RIMBACH: I don't know, Your Honor.

23 JUDGE SANDRON: What else would there be?

24 MR. HILGENFELD: The issue -- the issue comes down is the
25 GC has asked that we stipulate that one of the entities, Harley

1 Marine Financing, has not done something. Without reviewing
2 the thousand pages of documents, I can't make that stipulation.

3 I can stipulate these are the complete returns we have for
4 2020, and these are the complete returns we have to 2021, if
5 that makes sense, Your Honor.

6 JUDGE SANDRON: Okay. Are you satisfied with that?

7 MR. RIMBACH: I'm going to go ahead and read the specific
8 subpoena requests into the record, Your Honor.

9 The subpoena, issued on July 6th, 2022, subpoena number B-
10 1-1GG88C, P as in Paul, issued to Centerline Logistics
11 Corporation, paragraph 64 requests quarterly and annual tax
12 returns, including federal, state, and local returns with
13 attachments -- monetary amounts can be redacted -- filed by
14 Centerline Logistics Corporation for the tax years 2020 and
15 2021.

16 The only responsive documents we received were what -- the
17 documents that have been admitted as GC Exhibits 236 and 241.

18 The subpoena issued on July 1st, 2022, subpoena B-1-
19 1GEQ2F7 issued to Harley Marine Financing, paragraph 43
20 requests quarterly and annual tax returns, including federal
21 and state and local returns with attachments -- monetary
22 amounts can be redacted -- filed by Harley Marine Financing for
23 the tax years 2020 and 2021.

24 The only responsive documents the General Counsel received
25 were what have been admitted as GC Exhibits 236 and 241.

1 For the subpoena issued on July 1st, 2022 --

2 JUDGE SANDRON: All right. Are all the subpoena --
3 subpoenaed documents the same for each subpoena?

4 MR. RIMBACH: The subpoena request language is the same,
5 Your Honor --

6 JUDGE SANDRON: All right. Then I don't think --

7 MR. RIMBACH: -- with respect to --

8 JUDGE SANDRON: -- we need to go through -- through each
9 one separately. But I think what we need to have a handle on
10 is, are you saying that there should be other documents
11 available or -- that you don't think have been furnished?

12 MR. RIMBACH: I don't know whether there are -- there are
13 other documents and the Respondent is unable to stipulate to
14 that.

15 MR. HILGENFELD: Well, we can stipulate that these are the
16 complete tax returns. These are complete tax returns for all
17 the Respondents for 2020 and 2021.

18 JUDGE SANDRON: Would you be satisfied with that
19 stipulation?

20 MR. RIMBACH: No, Your Honor.

21 JUDGE SANDRON: Well, what else are you -- are you looking
22 for?

23 MR. RIMBACH: We need to ensure that there are no other
24 documents besides those documents.

25 MR. HILGENFELD: I don't know what you mean by other

1 documents.

2 MR. RIMBACH: Any other tax (sic) or state or local tax
3 returns.

4 MR. HILGENFELD: These are the complete tax returns.

5 MR. RIMBACH: So are there any other federal, state, or
6 local tax returns for each of these five respondents?

7 MR. HILGENFELD: None that we're aware of. These are the
8 complete tax returns.

9 JUDGE SANDRON: Are you satisfied with that?

10 MR. RIMBACH: Now I am, Your Honor. Yes.

11 JUDGE SANDRON: All right. Then that's been resolved. So
12 just so we recap what we've done so far. So these documents
13 are going to be placed under seal. And then -- I know they're
14 a little out of order as far as when they were introduced, but
15 we have 194, 235, 236, 239, 240, and 241.

16 MR. HILGENFELD: And I heard these are all under seal,
17 Your Honor?

18 JUDGE SANDRON: Right.

19 MR. HILGENFELD: Correct. Thank you, Your Honor.

20 MR. RIMBACH: Next, Your Honor, there is a series of about
21 40 -- about 40 documents that the General Counsel will offer as
22 part of its direct case. They consist of ledgers for Harley
23 Marine Financing, Centerline, Westoil Marine Services, Olympic
24 Tug & Barge, and Leo Marine Services.

25 They are broken down into direct cost ledgers, general and

1 administrative expenses ledgers, and revenue ledgers. There
2 are also monthly income statements for each of those entities
3 for the calendar years 2020, 2021, and 2022.

4 Off the record, we discussed with the Respondents how to
5 offer these exhibits into the record. And at present, the
6 General Counsel only has the native Excel versions of these
7 documents.

8 And my understanding is that -- and the General Counsel is
9 willing to -- to agree to the Respondent's request in this
10 regard to have these documents admitted as PDFs instead. But
11 it will take some time to convert these Excel spreadsheets to
12 PDFs by either the Respondent or the General Counsel.

13 My -- also my understanding is that the Respondent may
14 have additional objections, but we are willing to also have
15 these documents admitted under the protective order.

16 JUDGE SANDRON: All right.

17 MR. RIMBACH: These are similar documents to the ledgers
18 and monthly income statements that have already been offered by
19 the Respondent. There have been only a few that have been
20 offered so far, but these, in the General Counsel's
21 perspective, constitute the complete records as well as the
22 underlying documents that go to the monthly income statements
23 that have already been entered into as exhibits.

24 So I believe what we had agreed upon is if we can have a
25 ruling with respect to the admissibility of these documents and

1 that they will be admitted. Then at a later point, even
2 though, you know, we will conclude our direct case today, most
3 likely we will be able to offer these exhibits as PDFs.

4 JUDGE SANDRON: Well, I think without -- yes. Go ahead.

5 MR. HILGENFELD: Your Honor, at least from the
6 Respondent's point of view, I respect the judge's -- your prior
7 ruling on this. You've already issued a ruling on this as it
8 related to other documents --

9 JUDGE SANDRON: Right.

10 MR. HILGENFELD: -- that are similar to this. We would
11 just like to make that same objection --

12 JUDGE SANDRON: Okay.

13 MR. HILGENFELD: -- relevance, here to this.

14 JUDGE SANDRON: All right.

15 MR. HILGENFELD: We have no objection to these documents
16 being admitted out of turn related to direct.

17 JUDGE SANDRON: All right.

18 MR. HILGENFELD: You know, we are trying to work together
19 to get those PDFs, and we will continue to work with General
20 Counsel on that.

21 JUDGE SANDRON: All right.

22 MR. HILGENFELD: And we've also let General Counsel know,
23 just so the record's clear, that we're not trying to limit
24 General Counsel's ability to examine on the Excel version for
25 cross-examination purposes for future witnesses as it relates

1 to these documents.

2 JUDGE SANDRON: All right. Thank you.

3 MR. RIMBACH: So just for the record, it would be GC
4 Exhibits 242 through 283. And just to save time today, we can
5 go through those individually once we do get the PDF versions.
6 That might have to be in February when we reconvene. But as
7 long as, you know, we are able to get a ruling that these will
8 be admitted, then we are -- we'll be happy to offer them later
9 after our direct closes.

10 JUDGE SANDRON: Well, I'm not sure that it's appropriate
11 to admit them without at least seeing them.

12 MR. RIMBACH: I can display these also as Excel documents
13 on the --

14 JUDGE SANDRON: Well --

15 MR. HILGENFELD: -- TV screen.

16 JUDGE SANDRON: -- I think maybe we should just leave the
17 record open for those. I assume I'll admit them, but --

18 MR. RIMBACH: Understood, Your Honor.

19 JUDGE SANDRON: -- it's just a little hard in a vacuum to
20 know -- to know what I'll be admitting.

21 MR. RIMBACH: Sure. As long as we're able to do that as
22 part --

23 JUDGE SANDRON: Yes.

24 MR. RIMBACH: -- of our direct case, Your Honor.

25 JUDGE SANDRON: We'll give you that opportunity, yes.



1 MR. RIMBACH: Thank you.

2 JUDGE SANDRON: And Mr. Hilgenfeld's position on that --
3 on those is on the record.

4 MR. HILGENFELD: Thank you, Your Honor.

5 MR. RIMBACH: Thank you. That's all for the exhibits this
6 morning. I appreciate it.

7 JUDGE SANDRON: All right. Well, anything else you
8 wanted?

9 MR. HILGENFELD: One -- one piece, Your Honor. We have --
10 we do have stipulations of facts and documents in a document
11 form that --

12 JUDGE SANDRON: Oh. Very good. Okay. I think that --

13 MR. HILGENFELD: -- I'll hand you. I don't think we need
14 to read through it at all.

15 JUDGE SANDRON: All right. That's fine. I think that's
16 helpful. I'm glad they were reduced to writing. I think that
17 makes it a lot easier to follow and leaves less room for any
18 confusion.

19 Should we make this -- let's see. What was the last Joint
20 exhibit that we had? Does anybody recall that?

21 MS. YASSERI: I believe it was --

22 JUDGE SANDRON: I know we've --

23 MS. YASSERI: -- 4?

24 JUDGE SANDRON: -- run through a lot of -- we've had a
25 number of --

1 MS. YASSERI: I believe 3 --

2 MR. RIMBACH: 4 is the next.

3 JUDGE SANDRON: -- stipulations.

4 MS. YASSERI: 4 would be our next joint exhibit, Your
5 Honor.

6 JUDGE SANDRON: All right. We'll make this Joint Exhibit
7 4. And it's being a joint exhibit, it is admitted.

8 **(Joint Exhibit Number 4 Received into Evidence)**

9 MR. HILGENFELD: Thank you, Your Honor.

10 JUDGE SANDRON: Let me just take a quick look at -- so all
11 these documents are admitted by stipulation. Okay.

12 MS. YASSERI: Your Honor, if I can just note for the
13 record, I just noticed a typo on page 4 with respect to the
14 date.

15 JUDGE SANDRON: Page 4?

16 MS. YASSERI: It should say 2023 instead of --

17 MR. HILGENFELD: Which number is that?

18 MS. YASSERI: I'm sorry. Page 4, which says --

19 MR. HILGENFELD: Which paragraph?

20 MS. YASSERI: -- respectfully submitted this 23rd day
21 of --

22 MR. HILGENFELD: Oh. Yeah.

23 MS. YASSERI: -- January.

24 MR. HILGENFELD: Yes.

25 JUDGE SANDRON: Which one? Where is that? Let's see.

1 MS. YASSERI: It should be 2023 instead --

2 MR. HILGENFELD: Yeah.

3 MS. YASSERI: -- of 2022.

4 JUDGE SANDRON: Which --

5 MS. YASSERI: The last line on page 4.

6 MR. HILGENFELD: The very last line. Respectfully
7 submitted this day, the 23rd day of --

8 JUDGE SANDRON: Oh. I see.

9 MR. HILGENFELD: -- January. It should read 2023.

10 JUDGE SANDRON: All right. Or maybe if we can just
11 substitute a page with it -- with the correct date. I don't
12 think you need to redo the whole exhibit.

13 MR. HILGENFELD: We can certainly do that, Your Honor.
14 That's no problem.

15 JUDGE SANDRON: Yeah. I think that would be the easiest
16 way to do it is just a substitution of date.

17 Do we have anything further before we begin the cross-
18 examination of Mr. Skow?

19 MS. YASSERI: Not from the General Counsel, Your Honor.

20 JUDGE SANDRON: No? Mr. Hilgenfeld?

21 MR. HILGENFELD: No, Your Honor.

22 JUDGE SANDRON: Okay. Mr. Skow, you're still under oath.
23 So we'll now have cross-examination.

24 **CROSS-EXAMINATION**

25 Q BY MR. HILGENFELD: Good morning, Mr. Skow. How are you



1 doing?

2 A Good morning. I'm fine. Thank you.

3 Q Okay. Appreciate your patience this morning. Mr. Skow, I
4 understand you testified yesterday regarding a meeting that you
5 had with Doug Houghton and Brian Vartan on November 6th, 2020.
6 Do you recall that?

7 A I recall that meeting. Yes.

8 Q And in that meeting, you knew that Doug Houghton was
9 acting as a representative of Centerline Logistics Company,
10 correct?

11 A Yes.

12 Q And in that meeting, did Doug Houghton explain the request
13 for bid process to you at that meeting?

14 A Yes.

15 Q How did Mr. Houghton explain the request for bid process
16 at that meeting?

17 A What I recall, he said it had to be a clean process, that
18 him and Kelly couldn't be a part of it because he managed other
19 companies.

20 Q And when you say Kelly, are you referring to Kelly Moore?

21 A Yes.

22 Q And Mr. Moore, I believe you testified, is Senior Vice
23 President of the Gulf Coast; is that correct?

24 A Yes.

25 Q Did you understand that each business had to bid



1 anonymously?

2 A Yes.

3 Q Did Mr. Houghton tell you at that meeting that Glencore
4 was seeking a 30 percent reduction?

5 A No.

6 Q Was the Glencore contract discussed at that meeting?

7 A It was mentioned as all contracts. So I took it as
8 Glencore was a part of Minerva and Peninsula.

9 Q Isn't it true that nothing was discussed related to the
10 Minerva contract?

11 A It wasn't mentioned by name.

12 Q Isn't it true that nothing was discussed related to the
13 Peninsula contract?

14 A It wasn't mentioned by name.

15 Q Isn't it true that the discussion focused primarily on the
16 Glencore contract?

17 A It was stated all contracts.

18 MR. HILGENFELD: Okay. Do we have an extra copy of the --
19 Mr. Skow's June 11th, 2021 affidavit?

20 At this time, may I approach, Your Honor?

21 JUDGE SANDRON: Yes.

22 Q BY MR. HILGENFELD: Mr. Skow, did you provide a Board
23 affidavit on June 11th, 2021?

24 A Yes.

25 Q During that affidavit process, were you represented by



1 counsel of IBU at that meeting?

2 A Yes.

3 Q Did you have an opportunity to review that affidavit prior
4 to signing it?

5 A Yes.

6 Q Did you understand that affidavit was under oath?

7 A Yes.

8 Q Did you have an opportunity to initial each of the pages
9 of that affidavit?

10 A Yes.

11 Q And if I look -- and I've handed you confidential witness
12 affidavit that you provided to the NLRB on June 11th, 2021; is
13 that correct?

14 A Yes.

15 Q And is that your signature on page 16 of that affidavit?

16 A Yes. It is.

17 Q And it was signed and sworn by Ms. Yasseri?

18 A Yes.

19 Q Mr. Scow, I would like to turn your attention at first to
20 page 3, line 15. And read 15 to 24 to yourself.

21 A Okay.

22 Q And I'd like you to turn to page 4, and read lines 1 to 12
23 to yourself.

24 A Okay.

25 Q Mr. Skow, on the first full paragraph on page 4 beginning



1 with the paragraph, the discussion, can you read that full
2 sentence into the record?

3 A The discussion focused primarily on the Glencore contract
4 and nothing was discussed regarding the other Westoil
5 contracts --

6 Q Mr. Scow, can you speak up please, and slow down?

7 JUDGE SANDRON: Right. And make sure we can all hear you.

8 THE WITNESS: The discussion focused primarily on the
9 Glencore contract and nothing was discussed regarding the other
10 Westoil oil contracts, Minerva and Peninsula, that Vartan
11 claimed they are also up for renewal.

12 Q Okay. This sentence is referring to the November 6th,
13 2022 meeting, correct?

14 MS. YASSERI: Objection, Your Honor. I believe that
15 counsel mis -- misspoke. He said 2022.

16 MR. HILGENFELD: Oh. I apologize.

17 Q BY MR. HILGENFELD: This meeting referred to the November
18 6th, 2020 meeting that you had with Doug Houghton and Brian
19 Vartan, correct?

20 A Yes.

21 Q Okay. I'd like you to next go down halfway into that
22 paragraph, starting on line 8, the sentence that starts with
23 Houghton.

24 A Houghton further stated that Glencore had asked Centerline
25 for a 30 percent reduction in overall cost. For a number of

1 years, Westoil had -- has wanted the IBU to agree operating
2 one-man barges. However, I --

3 Q Okay. Thank you. Mr. -- Mr. Skow, thank you. Mr. Skow,
4 that statement that you make there regarding Mr. Houghton
5 telling you that Glencore had asked for Centerline for a 30
6 percent reduction as related to the November 6th, 2020 meeting,
7 correct?

8 A Yes. May I explain?

9 Q No, Mr. Skow.

10 JUDGE SANDRON: Counsels for the General Counsel can --

11 THE WITNESS: Okay. All right.

12 JUDGE SANDRON: -- ask you further questions if they feel
13 it's --

14 THE WITNESS: Okay.

15 JUDGE SANDRON: -- if they wish to.

16 Q BY MR. HILGENFELD: Did Mr. Houghton also inform you that
17 Vane had equipment coming off charter from Marathon at that
18 November 6th, 2020 meeting?

19 A Yes.

20 Q What does it mean to you if Vane has equipment coming off
21 charter?

22 A It means it's available to work.

23 Q Does that mean there's increased competition for work?

24 A Yes.

25 Q Did Mr. Houghton inform you that Kirby had three barges

1 coming off charter in Hawaii entering the West Coast market?

2 A Yes. He did.

3 Q Did Mr. Houghton inform you that Sause had two barges
4 coming off from Par?

5 JUDGE SANDRON: Well, if you don't read your affidavit.

6 MR. HILGENFELD: Oh yeah. Please put your affidavit down
7 or --

8 JUDGE SANDRON: Right. This is just what -- you know, if
9 you recall now.

10 THE WITNESS: All I recall is that he said they had barges
11 coming off charter.

12 Q BY MR. HILGENFELD: That Sause had barges coming off
13 charter?

14 A Yes.

15 Q Do you know who Par is?

16 A No. I'm not aware.

17 Q Have you heard of Par Petroleum?

18 A No. I have not.

19 Q Did Mr. Houghton tell you that all of the oil rates were
20 being driven to -- bear to the bones?

21 A Yes. He did.

22 Q Did Mr. Houghton tell you that Centerline had a fiduciary
23 responsibility to their investors to ensure the equipment
24 continued to operate?

25 A Yes. He did.

1 Q Did Mr. Houghton talk to you about a \$500 million bond?

2 A He mentioned it, yes.

3 Q Did Mr. Houghton tell you time was of the essence?

4 A I don't recall that.

5 Q Did you understand that the bid process had a short
6 turnaround?

7 A I do not recall that.

8 Q Did you understand that all proposals had to be submitted
9 by the end of November of 2020?

10 A Yes.

11 Q Do you recall -- Marina Secchitano was at that meeting,
12 correct?

13 A Yes.

14 Q And at that time, Ms. Secchitano was the president of the
15 IBU, correct?

16 A Yes.

17 Q Do you recall Ms. Secchitano asking that Doug Houghton
18 work directly with the IBU to help them secure the work?

19 A I do not recall.

20 Q Do you recall Mr. Houghton stating that he could not help
21 any company bid for that work?

22 A Can you repeat that question, please?

23 Q Sure. Do you recall that Mr. Houghton telling Ms.
24 Secchitano or the IBU representatives at that November 6th,
25 2020 meeting that he could not be involved with any of the

1 companies?

2 A Yes.

3 Q Did you take notes at the November 6th meeting?

4 A Yes.

5 Q And those are the notes that we went through during your
6 direct examination; is that correct?

7 A Yes.

8 Q Do you have GC Exhibit 158 in front of you? Is that still
9 up there?

10 A I do.

11 Q In GC Exhibit 158, is that clean room process? Do you see
12 that?

13 A Yes.

14 Q And I believe you testified is that what Mr. Houghton
15 stated?

16 A Yes. He did.

17 Q Is that the phrase that Mr. Houghton used, or is that your
18 paraphrasing what Mr. Houghton said?

19 A That's what Mr. Houghton said.

20 Q What did you understand that to mean?

21 A My understanding was that he was trying to keep everything
22 fair. That's how I interpreted it.

23 Q And does that mean fair between all the subsidiary
24 companies bidding on the work?

25 MS. YASSERI: Objection. Calls for speculation.



1 JUDGE SANDRON: Well, I think we've had a lot of testimony
2 about his understanding of certain matters, so I'll -- go ahead
3 and answer.

4 THE WITNESS: Can you repeat the question, please?

5 Q BY MR. HILGENFELD: Certainly. I'll try, Mr. Skow. You
6 said to keep the process fair. Did you understand that was to
7 be fair for all of the subsidiaries bidding for that work?

8 JUDGE SANDRON: Or did you have another understanding,
9 whatever your understanding was?

10 THE WITNESS: Yes.

11 Q BY MR. HILGENFELD: Just so I'm clear, I apologize. So
12 your understanding was to keep the process fair related to the
13 bid process for all the subsidiaries?

14 A Yes.

15 Q In your notes you talk about three nonunion companies.
16 Who are those nonunion companies again?

17 A I do not know.

18 Q Are you familiar with Vane Brothers?

19 A Yes. I am.

20 Q Is Vane Brothers a union or nonunion company?

21 JUDGE SANDRON: If you know.

22 THE WITNESS: I -- at this current time, I believe they're
23 not.

24 Q BY MR. HILGENFELD: And in November of 2020, were they
25 nonunion --

1 JUDGE SANDRON: If you --

2 Q BY MR. HILGENFELD: -- in Los -- in the Los Angeles area?

3 JUDGE SANDRON: And if you knew?

4 THE WITNESS: Yes. They were --

5 JUDGE SANDRON: All right.

6 THE WITNESS: -- nonunion.

7 Q BY MR. HILGENFELD: In November of 2020, Jankovich was a
8 nonunion company in the L.A. market area, correct?

9 A Yes.

10 Q In November of 2020, Maxum was a nonunion company in the
11 L.A. market area, correct?

12 A Yes.

13 Q Do you have an understanding of whether Vane, Maxum, and
14 Jankovich were competitors for Westoil services?

15 A I can answer I believe Vane was.

16 Q And in fact, Vane was performing bunkering work on the
17 Marathon Aegean contract in the L.A. Harbor area in November of
18 2020, correct?

19 A I was not aware of that.

20 Q Were you aware that Westoil lost the Marathon Aegean
21 contract in 2018 to Vane Brothers?

22 A I was not aware.

23 Q Are you aware of whether Westoil at some point performed a
24 time charter for Marathon in the L.A. Long Beach area?

25 A I was not aware of that.



1 Q On that November 6th, 2020 meeting, Mr. Vartan had told
2 you that the crewing -- manning and crewing matrix requirements
3 were not working for Westoil, correct?

4 A On what meeting was that?

5 Q The November 6th, 2020 meeting.

6 A I do not recall Brian mentioning that.

7 Q Okay. I'm going to turn your attention to your June 11th,
8 2021 affidavit. On page 4, do you see that?

9 A Yes.

10 Q Are you on line 6? If you could please read the sentence
11 starting with, Vartan talked.

12 A Vartan talked about the current manning requirements and
13 the crewing matrix and how that was not working for them.

14 Q Period?

15 A Period.

16 Q And --

17 MS. YASSERI: Your Honor, I'm just going to object. I'm
18 not sure if counsel's trying to refresh the witness'
19 recollection or to impeach the witness. It's just unclear to
20 me what's happening here. And if it is -- if he's trying to
21 refresh the witness' recollection, it's improper.

22 MR. HILGENFELD: This was impeachment.

23 JUDGE SANDRON: All right. Okay.

24 MR. HILGENFELD: You can put it down, Mr. Skow. I need
25 you to turn the affidavit over, please.

1 Q BY MR. HILGENFELD: Mr. Skow, would you agree that the
2 third manning requirement is a crew manning issue?

3 A For the company, yes.

4 Q And when I refer to a third man requirement, I am
5 referring to an extra individual working on the barge while
6 certain work is being performed. Do you have the same
7 understanding?

8 A My understanding is that when -- when the -- when the
9 company deems it necessary, that they could put a -- put a
10 third man on because, in the contract, it states you can
11 endeavor.

12 Q That was not my question, Mr. Skow. My question was --

13 A I'm sorry.

14 Q I'm just trying to define so we're all talking about the
15 same thing. What -- and maybe I'll phrase it this way. What
16 is a third man requirement?

17 A A third man requirement to my understanding under the
18 collective bargaining agreement is that it may be put on auto
19 ships when required by the harbor safety committee or when
20 there's a safety issue where they may consider it for safety.

21 Q Okay. And in normal operations under the Westoil
22 contract, a barge, when it is involving loading and unloading,
23 has two individuals on the barge, correct?

24 A That is correct.

25 Q And a third man would be a third man added to the barge,



1 correct?

2 A That is correct.

3 Q And the supplemental schedule that you testified
4 yesterday, would you agree that the supplemental schedule
5 involves a crew matrix?

6 A I don't understand what you mean by matrix.

7 Q In your affidavit, you used the term, Mr. Vartan talked
8 about crewing matrix. What did you understand Mr. Vartan to
9 mean?

10 A Well, that was Mr. Vartan's words. I just understand
11 crewing, how it -- how it's applied in the collective
12 bargaining agreement.

13 Q Did you ever -- and does supplemental schedules involve
14 crewing?

15 A Yes.

16 Q Mr. Vartan (sic), I'm going to turn your attention as I
17 understand it -- oh. Sorry. Mr. Skow. I apologize.

18 Mr. Skow, I'm going to turn your attention to, I believe,
19 is the next meeting that occurred with any company
20 representatives. And that was November 9th of 2020; is that
21 correct?

22 A That's correct.

23 Q At that November 9th, 2020 meeting, was -- I believe you
24 testified Brian Vartan was present; is that correct?

25 A That's correct.

1 Q Do you recall if Matt Hathaway was present?

2 A I do not recall.

3 Q Do you recall if Mr. Vartan informed the IBU that
4 Centerline was collecting bids at that meeting?

5 A Yes.

6 Q Do you recall Mr. Vartan informing you that Westoil had
7 additional crewing costs that other companies did not have?

8 A Yes.

9 Q Did you understand that Westoil did not own the Glencore
10 contract?

11 A Yes.

12 Q Did you know that Westoil did not own the equipment?

13 A Yes.

14 Q And in fact, during 2017-2018 Labor negotiations, IBU was
15 told repeatedly that Westoil did not own the equipment or
16 contracts; correct?

17 MS. YASSERI: Objection. Relevance.

18 MR. HILGENFELD: Goes to knowledge as to what they owned
19 and what they didn't own. General Counsel has put that at
20 issue on multiple times.

21 MS. YASSERI: It's outside the time period, Your Honor.
22 We're talking 2017 here.

23 MR. HILGENFELD: If they knew about -- if they knew about
24 it in 2017, then they knew about it in 2020.

25 JUDGE SANDRON: All right. Go ahead.



1 THE WITNESS: Yes.

2 Q BY MR. HILGENFELD: And I'm going to -- just so the
3 record's clear, and I apologize because of the objections, Mr.
4 Skow. So in 2017 and 2018, the idea was told repeatedly during
5 bargaining that Westoil did not own the contracts or the
6 equipment, correct?

7 A I don't remember that far back what was discussed in
8 bargaining and that. I would have to study my -- look at notes
9 or something.

10 Q Did you participate in an arbitration that occurred in
11 2015?

12 MS. DERRY: Objection. Relevance. It's totally outside
13 the time frame.

14 MR. HILGENFELD: It again goes to knowledge. There's a
15 2015 arbitration where it talks about Westoil not owning the
16 equipment. Mr. Skow participated in that. That arbitration
17 was later discussed in bargaining in 2017 and 2018. It's
18 directly relevant in 2020.

19 MS. DERRY: The arbitration --

20 JUDGE SANDRON: This really shouldn't be in the witness's
21 presence, but I'll allow the question. But we really shouldn't
22 be in the room if the event is, in a sense, made by proffer.

23 MR. HILGENFELD: I apologize, Your Honor.

24 MS. YASSERI: I think -- Your Honor, may we have Mr. Skow
25 step out for a second --



1 JUDGE SANDRON: Yes.

2 MS. YASSERI: -- because I think this is going to be a
3 recurring issue that we may want to address.

4 JUDGE SANDRON: All right. Would you please step outside
5 for a minute?

6 THE WITNESS: I'm going to use the restroom.

7 JUDGE SANDRON: Yes. Go ahead.

8 MS. YASSERI: Your Honor, sort of to echo the comments of
9 counsel for the IBU, the arbitration decision is already in
10 the record. I believe it's Respondent's Exhibit 121.

11 JUDGE SANDRON: I see.

12 MS. YASSERI: The decision speaks for itself.

13 JUDGE SANDRON: All right.

14 MS. YASSERI: Mr. Skow's understanding of what that
15 decision is and the facts of that decision, it's not -- it's
16 not relevant, it's not proper.

17 MS. DERRY: And I would further object because the
18 decision has nothing to do with the work that's at issue in
19 this case.

20 MR. HILGENFELD: Your Honor, in 2015, what -- IBU brought
21 forth a grievance that OTB was performing petroleum -- marine
22 petroleum transportation work in the L.A./Long Beach Harbor.
23 Westoil prevailed. In 2017 and 2018, that arbitration was at
24 scope in that. You've already allowed -- a proposal regarding
25 the work preservation was brought forward by Mr. Skow where he

1 testified that the work -- well, he didn't testify. He stated
2 during bargaining that it was brought forward based upon that
3 arbitration in 2020.

4 MS. DERRY: Objection. I don't think --

5 MR. HILGENFELD: That now --

6 JUDGE SANDRON: Wait, wait. Let counsel finish. Then you
7 can --

8 MS. DERRY: Oh. He's testifying as to facts that aren't
9 in the record.

10 JUDGE SANDRON: All right. Well, just -- the witness is
11 not here, and that's not at --

12 MS. DERRY: I understand, but I would like the record to
13 be clear that --

14 JUDGE SANDRON: All right.

15 MS. DERRY: -- Mr. Hilgenfeld is not a witness in this
16 case and his testimony -- or his comments to Your Honor are not
17 testimony. They're not --

18 JUDGE SANDRON: Oh, I recognize that.

19 MR. HILGENFELD: One of the issues that's directly going
20 to be before you, Your Honor, that is part of the Respondents'
21 case, is this is a contract coverage case. Unilateral changes
22 in MV Transportation deal with contract coverage. What is
23 covered by the contract and what is not covered by the contract
24 is directly relevant. The parties' bargaining history in 2017
25 and 2018 is what the current contract is based on. What is and

1 what is not in that agreement is directly relevant and directly
2 part of the Respondents' defense in this case. The IBU has
3 known that OTB performs this work. There was no unilateral
4 change. That is a direct and key issue in this case.

5 JUDGE SANDRON: The arbitration, you say, is already in
6 the record.

7 MS. YASSERI: Yes, Your Honor.

8 JUDGE SANDRON: The award.

9 MS. YASSERI: I believe it's Respondent's Exhibit 121.

10 JUDGE SANDRON: That's -- there was --

11 MR. HILGENFELD: That's correct, Your Honor.

12 JUDGE SANDRON: So what do you wish to elicit from the
13 witness?

14 MR. HILGENFELD: For this, I literally have one question;
15 that Mr. Skow was aware in 2015 that Westoil did not own the
16 equipment.

17 JUDGE SANDRON: But with --

18 MR. HILGENFELD: But if he says no, then that's fine.

19 JUDGE SANDRON: All right. Well, if the arbitration was
20 in that year, I know it's in the -- we have a docket.

21 MS. YASSERI: I'm sorry, Your Honor.

22 JUDGE SANDRON: What year the arbitration --

23 MS. YASSERI: I believe it was -- the decision was
24 rendered in 2015.

25 JUDGE SANDRON: All right. Well, if it's in the record,

1 then the union -- whatever is in the arbitration award, the
2 unions have knowledge. I mean, if there is stake -- if they're
3 about looking at the award -- I mean, if the award addressed
4 some of these issues, then obviously the union had knowledge of
5 that.

6 MS. DERRY: Well, the arbitration addressed different work
7 and different equipment.

8 JUDGE SANDRON: All right. Well, then that can be argued
9 as far as relevance. But whatever is in the -- are you trying
10 to get, Mr. Hilgenfeld, evidence from the witness outside of
11 what's in the arbitration award?

12 MR. HILGENFELD: I'm trying to get evidence of what this
13 witness's knowledge was.

14 JUDGE SANDRON: Well, that can --

15 MR. HILGENFELD: So the arbitration award says one thing;
16 he testified, and that's in the arbitration award.

17 JUDGE SANDRON: All right.

18 MR. HILGENFELD: And so I want to know what he knows.

19 JUDGE SANDRON: Well, what would he know now that --

20 MR. HILGENFELD: And when he knew it.

21 JUDGE SANDRON: -- beyond what's in the award itself?
22 You're talking about seven years plus. So what else would
23 he --

24 MR. HILGENFELD: Well, then just to confirm he knew that.
25 That's -- that's what we're seeking.

1 JUDGE SANDRON: Well, all right. Well, I don't think he
2 needs to confirm it. It's -- that would be obviously something
3 he knew if it's in that award back in 2015. So you don't need
4 to ask him any --

5 MR. HILGENFELD: Understood, Your Honor.

6 JUDGE SANDRON: -- thing on that.

7 MR. HILGENFELD: Fair -- fair enough.

8 JUDGE SANDRON: Okay. He can come back.

9 MS. YASSERI: And I think, Your Honor, just to also
10 confirm that any questions from Mr. Hilgenfeld regarding Mr.
11 Skow's understanding of either the arbitration decision or the
12 work preservation clause, we would maintain the same position.
13 The work preservation clause is also already admitted into
14 evidence. It speaks for itself. So Mr. Skow's understanding
15 of what that is or what was discussed about it, it's not
16 relevant. And furthermore, all of this amounts to parol
17 evidence. So, Mr. Hilgenfeld talks about the defense of
18 contract coverage. Well, if you're trying to produce parol
19 evidence, that assumes that the contract is ambiguous, so those
20 two arguments are not in harmony with one another. You're
21 either arguing contract coverage or you're arguing that the
22 contract is ambiguous and therefore you want to introduce parol
23 evidence, which is what he's trying to do.

24 MR. HILGENFELD: That is one hundred percent not accurate,
25 Your Honor. Two things: One, Mr. Skow -- the work

1 preservation proposal is in the record. Mr. Skow is the lead
2 negotiator who presented that proposal. What he said when he
3 presented that proposal does go to what the union's intent was.
4 And the parol evidence rule and collective bargaining agreement
5 has never been interpreted by the Board as General Counsel
6 pushes on this case. When a proposal is made by a party and it
7 is not accepted by that party, that evidence can be used that
8 the parties did not intend that to be included.

9 MS. YASSERI: Well, if I may, Your Honor, there's no
10 dispute that the proposal wasn't accepted. It's in the record,
11 and --

12 JUDGE SANDRON: All right.

13 MS. YASSERI: -- it states in the -- on the document that
14 the Employer rejected the proposal. So it speaks for itself.
15 Any further testimony from Mr. Skow regarding what was said
16 about their proposal and its rejection is not appropriate.

17 MR. HILGENFELD: It goes to the party's intent.

18 JUDGE SANDRON: But it would seem, though, from what
19 General Counsel is saying, is that that's already in the
20 record, essentially.

21 MR. HILGENFELD: It's not, Your Honor. What's in the
22 record is the proposal. With all proposals during collective
23 bargaining --

24 JUDGE SANDRON: Right.

25 MR. HILGENFELD: -- there's also statements that go into



1 what the parties intended.

2 JUDGE SANDRON: But that --

3 MR. HILGENFELD: And it's those statements that are
4 important.

5 JUDGE SANDRON: Right. But that proposal was rejected,
6 right?

7 MR. HILGENFELD: No, it's in the record, Your Honor.

8 MS. YASSERI: The proposal is in the record, Your Honor.
9 The fact that it was rejected is reflected.

10 JUDGE SANDRON: Oh, was not included in the contract.

11 MS. DERRY: Yes, Your Honor; that's correct.

12 MR. HILGENFELD: Yes.

13 MS. YASSERI: It's reflected in the document. I believe
14 there's a notation. We're pulling up the exhibit now. It says
15 that the employer rejected it --

16 JUDGE SANDRON: All right.

17 MS. YASSERI: -- at such and such time. I believe it was
18 in the 30s.

19 MR. HILGENFELD: But the proposal that gets made goes to
20 the intent of what the IB intended.

21 JUDGE SANDRON: All right. But we have the proposal in
22 the record already.

23 MR. HILGENFELD: But we get his testimony --

24 MS. YASSERI: Yes.

25 MR. HILGENFELD: -- about what was said when he gets to

1 propose it.

2 JUDGE SANDRON: Well, I don't know. Do you need anything
3 further to basically elaborate on that? It would seem that if
4 the proposal was proposed by the union and rejected, then that
5 tells you that it was not, you know, put in the contract.

6 MR. HILGENFELD: We believe you do, Your Honor.

7 JUDGE SANDRON: Why?

8 MR. HILGENFELD: It goes to what they intended with the
9 proposal. When you read the proposal, it is -- what was it
10 they were intending to do? They were intending to keep Olympic
11 Tug and Barge out of the L.A./Long Beach area. That proposal
12 goes to that. They don't specifically say Olympic Tug and
13 Barge in their proposal. That was stated at the bargaining
14 table.

15 MS. YASSERI: Again, Your Honor, our position is this is
16 all amounting to parol evidence. It's GC Exhibit --

17 JUDGE SANDRON: All right. Well, I can look at it if --

18 MS. YASSERI: -- response -- sorry -- Respondent's Exhibit
19 133.

20 JUDGE SANDRON: Okay. Well --

21 MS. YASSERI: It clearly says on here that the company
22 response, no, not going to agree. So the document speaks for
23 itself that the company rejected the proposal.

24 MR. HILGENFELD: That's not the issue. Of course -- the
25 company did reject the proposal. What's issued is what did

1 also went along with the proposal about what the intent -- what
2 that proposal was.

3 MS. YASSERI: That's not relevant.

4 MR. HILGENFELD: And that's directly relevant to this
5 issue before you.

6 JUDGE SANDRON: Well, is it actually parol evidence?

7 MR. HILGENFELD: It is not.

8 MS. YASSERI: We're talking about discussions of --

9 JUDGE SANDRON: Right.

10 MS. YASSERI: -- that were -- occurred outside the
11 negotiation of the collective bargaining agreement that the
12 respondents are relying on to argue contract coverage.

13 MR. HILGENFELD: It was not outside the collective
14 bargaining agreement. It was at the collective bargaining
15 table.

16 MS. YASSERI: Well, they --

17 MR. RIMBACH: We'll have to bring up the transportation
18 under contract covers. They only look at the fine language.

19 MS. YASSERI: Your Honor, we maintain our position --

20 JUDGE SANDRON: All right. Well --

21 MS. YASSERI: -- as currently stated.

22 MS. DERRY: And I would add that I believe that this is
23 outside the scope of direct.

24 JUDGE SANDRON: All right. Well --

25 MR. HILGENFELD: Well, he's been called as a witness in

1 our case. Mr. Iglitzin asked that we put all of our evidence
2 in during the testimony.

3 JUDGE SANDRON: Well, I --

4 MS. DERRY: I understand. I was just under the impression
5 that procedurally you would do cross and that then you would
6 have him on direct. But if I misunderstood, I apologize.

7 JUDGE SANDRON: Well, I mean, if the parties feel that
8 it's important, we can take a brief recess, and before I make a
9 ruling, you can give me your respective support for your
10 positions and I'll consider them and also -- right -- can get
11 into a computer, do some minor research, and I'll make a
12 decision if the parties feel that's important enough.

13 MR. HILGENFELD: We're going to ask the questions, Your
14 Honor. There -- it's vitally important to our case and we will
15 move forward.

16 JUDGE SANDRON: All right. Then we'll take a recess.
17 I'll let the parties see what they can find as far as legal
18 support, and then I'll see what I can find if I can get into
19 Westlaw and make a decision. I mean, they -- if it's that
20 important, if the parties -- all right.

21 So we'll go off the record while we do that. And of
22 course, Counsel, or the other counsels, for the meeting rooms
23 are welcome also if you want to see what you can find. So, off
24 the record.

25 (Off the record at 10:38 a.m.)

1 JUDGE SANDRON: On the record. As I've explained to the
2 parties, I don't have access to legal research. I used to have
3 a Westlaw app that I could look at, but now that the agency
4 switched to Lexis, I have no way of getting into the Lexis on
5 the iPhone, at least as far as I know. And so I'll listen to
6 what the parties have been able to ascertain as far as the
7 state of the law. In just doing some general research on the
8 parole evidence rule under Google, I see it's a very complicated
9 subject, especially as it relates to collective bargaining.
10 But anyway, we can hear from counsels. I guess, Mr.
11 Hilgenfeld, since you want to state that the parole evidence
12 rule should not apply -- is that correct? I'll let you go
13 first.

14 MR. HILGENFELD: I think our position, Your Honor, is a
15 little more nuanced than it just doesn't apply. But I do think
16 in general, it's not that it doesn't apply; it's how this is in
17 this case. So let me try to explain my position a little more
18 articulately.

19 JUDGE SANDRON: Okay. Go ahead.

20 MR. HILGENFELD: It is the Respondent's position that the
21 testimony -- that statements made during the proposal go to the
22 interpretation of what is intended by that proposal. The NLRB
23 has stated Interlakes Engineering Company, 217 NLRB 148 1975,
24 it's not an action that even if the terms are clear, if it's
25 seeking to interpret the correct interpretation of the

1 agreement, external evidence is permissible. In that case,
2 they were trying to interpret this settlement agreement. The
3 Board in Sheet Metal Workers', 278 NLRB 638 1986 reaffirmed
4 that position. In Southern Cal Ellison Company, 295 NLRB 203
5 1985, stated the plain meaning of the words of a contract
6 provision, the Board has declined to apply the parol evidence
7 rule to exclude extrinsic evidence. It goes to the
8 interpretation issue. That was my statement, not the Board's
9 statement.

10 JUDGE SANDRON: Okay. And General Counsel?

11 MS. YASSERI: Thank you, Your Honor. Our understanding is
12 that the Respondents are arguing as an affirmative defense.
13 The application of that contract covered standard under NB
14 Transportation cited at 368 NLRB Number 66, the decision from
15 September of 2019. Under that case, the Board held that the
16 contract standard provides -- contract coverage standard
17 provides that the Board give effect to the plain meaning of the
18 relevant contractual language and ordinary principles of
19 contract interpretation. And that it will find that the
20 agreement covers the challenged unilateral act, the act falls
21 within the compass or scope of contract language. That
22 argument, Your Honor, is not -- is contradictory to
23 Respondent's attempts at trying to introduce extrinsic
24 evidence. Evidence regarding proposals that did not make
25 itself into the collective bargaining agreement that they want

1 to rely to argue contract coverage, and testimony regarding
2 what was discussed regarding those proposals. This is
3 essentially an attempt at trying to advance two arguments that
4 are not in harmony with one another. With respect to our
5 position regarding parol evidence, again, we can cite to
6 multiple cases held by the Board that evidence outside or
7 extrinsic to an agreement is inadmissible to vary or contradict
8 its clear and unambiguous terms. In support of that, we cite
9 Orchids Paper Products Company, cited at 367 NLRB Number 33,
10 slip opinion at page 22, a decision from 2018, and Church
11 Square Supermarket, cited at 356 NLRB 1357, 1359, a decision
12 from 2011. We also cite to NLRB versus Electrical Workers
13 Local 11, 772 F. 2(d) 571 575, Ninth Circuit 1985, specifically
14 holding where contractual provisions are unambiguous, the NLRB
15 need not consider extrinsic evidence. Parol evidence is
16 therefore not only unnecessary but irrelevant. Enforced, 270
17 NLRB 424 1984.

18 JUDGE SANDRON: And you're -- Mr. Hilgenfeld, your
19 response to those cases, including the Ninth Circuit decision?

20 MR. HILGENFELD: I do, Your Honor. Just one second. The
21 cases that we cited were plain meaning cases. It's that even
22 when plain meaning applies, extrinsic evidence is permitted.
23 Those are the cases I gave to you before.

24 And in light of that, I think the Third Circuit in -- I
25 believe it's the Third Circuit case -- Indianapolis Power and

1 Light gave a statement as to why. The words parties use in
2 drafting contracts are only evidence in their intent. The
3 words themselves are not the parties' intent. The Board may
4 not, in the guise of enforcing the plain meaning of a
5 contractual language, erect an inflexible presumption on the
6 issue turning on the parties' intent. The Board has recognized
7 that in the cases we've cited. They've allowed extrinsic
8 evidence when there's plain meaning. We are not seeking to
9 contradict the clear, ambiguous terms. We are not trying to do
10 that. We are trying to interpret the clear terms. It is
11 directly in line with MV Transportation and it's permissible
12 under board law.

13 JUDGE SANDRON: And -- but the -- sorry, you say the
14 Respondent's position is contradictory. Can you just explain
15 what you mean by that?

16 MS. YASSERI: Yes, because they initially argue under the
17 contract coverage standard, which essentially relies on the
18 plain language in the contract. But they're also trying to now
19 introduce extrinsic evidence in support of terms that are in
20 that contract. So you can't argue that the language in the
21 contract is clear and unambiguous and then try to introduce
22 evidence that in order to do that, you first need to establish
23 that there is an ambiguity.

24 MR. HILGENFELD: And the Board disagrees. The Board does
25 not say you have to have ambiguity. They say even when it's

1 plain on its face, you can use extrinsic evidence to interpret
2 the interpretation. It's not inconsistent.

3 MS. YASSERI: And Your Honor, I have not had the
4 opportunity to look up the cases that counsel cited, but I
5 understand he cited to a decision from 1975. MV Transportation
6 came out in 2019.

7 MR. HILGENFELD: The fact the Board has been -- it's not
8 been overturned for fifty years is good evidence that this is
9 allowed. And it was again recited in the mid-'80s that was
10 further supported.

11 JUDGE SANDRON: Does MV Transportation -- how does that
12 bear on the earlier decisions that counsel has cited? And
13 obviously, they are more recent and if they do negatively
14 impact your earlier decisions, then they would obviously govern
15 over prior decisions of the Board.

16 MR. HILGENFELD: I don't believe MV Transportation dealt
17 with parol evidence or extrinsic evidence to my knowledge.

18 MS. YASSERI: But it did deal with the issue of trying to
19 rely on it to argue that the plain language in the contract
20 privileged the Respondent to unilaterally act without
21 bargaining with the Union, which is --

22 MR. HILGENFELD: No.

23 MS. YASSERI: -- the arguments that are being advanced
24 here.

25 MR. HILGENFELD: It led to -- is -- does the contract

1 cover the work? If the contract covers the work, it's not a
2 unilateral change. That is a different question in whether
3 extrinsic evidence is allowed to determine the interpretation
4 of what covers the work.

5 MS. YASSERI: I think what's clear is that under MV
6 Transportation, you look at the plain language of the contract.
7 You don't look at any extrinsic evidence, which is what the
8 Respondents are trying to introduce.

9 MR. HILGENFELD: No, it's clear as you look at the plain
10 meaning of the contract and the extrinsic evidence can
11 interpret the plain meaning of the contract, and that's through
12 Interlakes Engineering. That case is directly on point; it has
13 not been overturned.

14 JUDGE SANDRON: Like I said, I am at a big disadvantage
15 because I can't do any research at this point of my own. Yet,
16 I may just have to ask counsel, how far do you intend to go
17 into this line of questions? That's part of my
18 consideration --

19 MR. HILGENFELD: But --

20 JUDGE SANDRON: -- as to whether we want to spend a lot
21 of -- we have so many issues in this case and we have so much
22 evidence, I'm not sure we want to go on another path
23 unnecessarily.

24 MR. HILGENFELD: But we don't consider this another path;
25 we consider this part of our path. I will say that my

1 examination of Mr. Skow on this topic is no more than ten to
2 fifteen minutes. We've far exceeded that. But we do believe
3 it's an important ten to fifteen minutes.

4 JUDGE SANDRON: Well, now, with the General Counsel's
5 position, we are the same and we get to the Respondent's
6 witnesses if they're testifying about the same matters?

7 MS. YASSERI: Certainly, Your Honor. Yes, we would rely
8 on the very same position.

9 JUDGE SANDRON: I don't know. If -- I may have to ask the
10 parties to print out the -- at least the main decisions that
11 you've talked about, that would be the one from 278 NLRB, 633.
12 That was your primary case, correct? It was --

13 MR. HILGENFELD: That's where the cases have been
14 developed from.

15 JUDGE SANDRON: All right. Well, then I'd like to see
16 that one, and then the MV Transportation. So I ask the parties
17 to print those out so I can review them again. Unfortunately,
18 I'm not in a position to be able to do any of my own research
19 here in the field. So do you want to print those out for me?

20 MS. YASSERI: Sure. Yes, Your Honor.

21 JUDGE SANDRON: We'll go off the record. Again, I'll have
22 to just --

23 (Off the record at 11:22 a.m.)

24 JUDGE SANDRON: Back on the record. Mr. Hilgenfeld had
25 made the suggestion that we defer the issue regarding the plain

1 language issue and go forward at this point with further cross.
2 So I believe the General Counsel thinks that was also a good
3 suggestion, so we will proceed accordingly.

4 MR. HILGENFELD: Thank you, Your Honor.

5 Thank you for your patience, Mr. Skow.

6 Q BY MR. HILGENFELD: Mr. Skow, I'm going to turn your
7 attention back to November 9th, 2020, with your meeting with
8 Brian Vartan and IB. Do you recall that meeting?

9 A Yes.

10 Q At that meeting, do you recall Mr. Vartan asking the IBU
11 to reduce third man requirements?

12 A No, I do not.

13 Q I am going to -- you have some exhibits behind you there,
14 notebooks, right behind you. I'm going to turn your attention
15 to Respondent's 26.

16 A It's in this witness notebook?

17 Q It's one of --

18 MR. HILGENFELD: -- do you mind if I approach?

19 JUDGE SANDRON: Yes, go ahead. That might be more
20 expeditious because there are a lot of --

21 MR. HILGENFELD: There are a lot here.

22 JUDGE SANDRON: -- so we can get to the right ones more
23 quickly. Oh, yeah, this is -- what number was that?

24 MR. HILGENFELD: It was 26, Your Honor.

25 JUDGE SANDRON: Okay. In the right notebook. Okay. They

1 are tabbed which is good. Easy to find. Okay. That's R-26.
2 Okay. Here we are.

3 MR. HILGENFELD: We all have -- we're all on that
4 document?

5 JUDGE SANDRON: I think everybody has it.

6 Q BY MR. HILGENFELD: Mr. Skow, this document has been
7 admitted into evidence, and these were notes taken by Brian
8 Vartan concerning a November 9th, 2020 meeting with the IBU to
9 discuss RFP and cost saving options. Do you have that before
10 you?

11 A Yes.

12 Q Mr. Vartan's second bullet point discussed crewing costs,
13 crew change, overtime length, manning issues, paren, third man,
14 end paren, barge manning options, paren, SMS 060-460, end
15 paren. Do you see that bullet point?

16 A Yes.

17 Q Okay. Do you recall Mr. Vartan discussing crewing costs
18 during the November 9th, 2020 meeting?

19 A I do not recall.

20 Q Do you recall Mr. Vartan return -- discussing crew change
21 and overtime?

22 A Yes.

23 Q Do you recall Mr. Vartan discussing manning issues?

24 A Yes.

25 Q What did you understand Mr. Vartan to mean when he was

1 talking about manning issues?

2 A My understanding was that he was having difficulty manning
3 the tugboats.

4 Q Wasn't that the overtime issue?

5 A Yes.

6 Q Isn't the manning issue separate from the overtime issue?

7 A I think manning issues could lead into overtime issues.

8 Q Turning your attention to GC Exhibit 151.

9 JUDGE SANDRON: Can we get that -- I think -- doesn't have
10 a note, but --

11 MR. HILGENFELD: It should be a loose leaf -- if you want
12 to keep that where it's at, Mr. Skow, we may be coming back to
13 that.

14 THE WITNESS: Okay.

15 MR. HILGENFELD: It was loose -- Exhibit 159 are your
16 notes taken on November 9th and November 25th. That should be
17 in front of you right there.

18 JUDGE SANDRON: That was 159?

19 MR. HILGENFELD: 159. And I believe it was handed to you
20 yesterday, Your Honor.

21 JUDGE SANDRON: Oh, okay. Then it should be up here.

22 MR. HILGENFELD: Everybody there?

23 JUDGE SANDRON: Yeah. Okay. That's fine. It's in this
24 stack. I think that was -- okay. I think I'm -- okay. I --
25 here it is.

1 MR. HILGENFELD: They're handwritten notes, Your Honor.
2 Three pages.

3 JUDGE SANDRON: Yes. Okay. Let me get that over here. A
4 lot of -- 159? Here it is. Okay, everybody. Have it. Okay.

5 Q BY MR. HILGENFELD: Your notes indicate halfway down,
6 overtime, double time, crew change from Chemoil. Was that all
7 one statement?

8 A That was different -- it's not all one; it's just
9 different issues that he had brought up.

10 Q And Mr. Vartan brought those up?

11 A Yes.

12 Q Okay. What is the overtime issue?

13 A You -- from my understanding, the overtime issue had to
14 deal with trying to get engineers to come in, cover nights and
15 weekends. And that they were -- the casual engineers were not
16 coming in to cover the work. So which led them -- they were
17 holding out for overtime, and sometimes they wouldn't take the
18 overtime. That would force the company to call them in for
19 mandatory double time.

20 Q Does the contract between IB and Westoil have a voluntary
21 callout procedure?

22 A Yes.

23 Q Employees are on voluntary callout, do they receive
24 overtime for the callout?

25 A Yes.

1 Q So when we're talking about the overtime issue, we're
2 talking about voluntary callouts; is that correct?

3 A Yes.

4 Q And the mandatory callout procedure has a double time
5 provision, correct?

6 A That's correct.

7 Q And if I understand correctly, the way it works is
8 employees would be dispatched through a voluntary callout. If
9 no one accepted it, it would go to a mandatory callout. Is
10 that correct?

11 A That's correct.

12 Q Do -- and when we talk about overtime, the crew work a
13 twelve-hour day typically; is that correct?

14 A Scheduled crews do.

15 Q And on the scheduled crew, the first eight hours are
16 regular time, hours 8 to 12 are time-and-a-half, correct?

17 A Yes.

18 Q And if they work over 12, they get double time?

19 A That's correct.

20 Q For a voluntary callout, they get paid time-and-a-half for
21 all of their hours worked, correct?

22 A Yes.

23 Q And for mandatory callout, they get paid double time for
24 all their hours worked, correct?

25 A That's correct.

1 Q What's referenced meant by crew change from Chemoil? Is
2 that connected or are those two different things?

3 A It was connected to the double time.

4 Q And then all the way down, second to the bottom, Mr.
5 Vartan talks about crewing on boats. These would be manning
6 requirements, correct?

7 A Yes.

8 Q And the third man is a manning issue, correct?

9 A Yes.

10 Q And Mr. Vartan -- yesterday you testified to the Union's
11 interpretation of the supplemental schedule and standard
12 crewing. Do you recall that?

13 A Yes.

14 Q And if I understand the Union's position correctly, it is
15 the Union's position that the company cannot institute a
16 supplemental schedule unless standard crewing levels are met.
17 Correct?

18 A That's correct.

19 Q And in November of 2020, Westoil was below a standard crew
20 level. Correct?

21 A That's correct.

22 Q I believe -- how many tanker men did -- was Westoil have
23 in November of 2020?

24 A My understanding that they were at 12 tankermen --

25 Q Okay. And standard --

1 A -- and ten engineers.

2 Q -- and standard crewing was 14, correct?

3 A That's correct.

4 Q And how many engineers did they have?

5 A Ten.

6 Q And standard crewing was 12, correct? Or was it ten?

7 A Ten.

8 Q It was ten. So they're at standard crewing for engineers,
9 but not ten, correct?

10 A Correct.

11 Q And standard crewing for deckhands was two, correct?

12 A Correct.

13 Q And how many deckhands were in November of 2020?

14 A None.

15 Q Did you understand that the company's interpretation of
16 the labor agreement was different than the Union's in November
17 of 2020?

18 MS. DERRY: Objection. Vague.

19 JUDGE SANDRON: Well, I think he can -- I think -- well,
20 he'd have to -- was there any discussion of -- directly on
21 whether the parties interpreted the contract differently? Was
22 that discussed at all?

23 THE WITNESS: The only -- the only thing it was being
24 argued was that if they could put more supplementals on, then
25 if we weren't at full standing -- full standing crewing levels.

1 JUDGE SANDRON: So on that point, there was a difference
2 of opinion on what the contract provided?

3 THE WITNESS: Correct.

4 Q BY MR. HILGENFELD: And did you understand Mr. Vartan from
5 Westoil's position-wise, Westoil could implement supplemental
6 schedules without being at standard crewing?

7 A Yes.

8 Q And in November 9th, 2020, Mr. Vartan was asking the Union
9 to accept the employer's interpretation of the labor agreement.
10 Correct?

11 A No. Well -- take that back. He was trying, yes.

12 Q Okay. That was his attempt.

13 JUDGE SANDRON: Well, I think -- yeah.

14 MS. DERRY: Objection.

15 JUDGE SANDRON: I think if he asked the Union to do that,
16 then --

17 Q BY MR. HILGENFELD: Did you understand Mr. Vartan was
18 asking the Union to accept the company's position on
19 supplemental crewing?

20 JUDGE SANDRON: What was your question? Did --

21 MR. HILGENFELD: I'll try to -- I'll back up and try to
22 reframe.

23 Q BY MR. HILGENFELD: On November 9th, 2020, did Mr. Vartan
24 tell you that recognition of the employer's position related to
25 supplemental crewing in the current CBA would be a quick way to

1 show the IBU's reasonable willingness moving forward?

2 A I don't recall that.

3 Q I'm going to turn your attention to Respondent's Exhibit
4 26 in front of you. It's the notebook you were just looking
5 at. Do you see the third bullet point from Mr. Vartan's notes?

6 MS. YASSERI: Sorry, Mr. Hilgenfeld.

7 JUDGE SANDRON: Yeah.

8 MS. YASSERI: Can you give us a second?

9 MR. HILGENFELD: Oh, I apologize.

10 MS. YASSERI: Thank you. Thank you.

11 MR. HILGENFELD: Do we all --

12 MR. RIMBACH: It's not necessary to show that. It's not
13 really his question.

14 Q BY MR. HILGENFELD: Mr. Vartan (sic), do you see the third
15 bullet point on Mr. Vartan's notes that says discussed
16 recognition of supplemental crewing and current CBA option is
17 quick way to show willingness to be a viable option for
18 continued operations?

19 MS. YASSERI: Your Honor, I'm just going to object.

20 JUDGE SANDRON: Yeah, I --

21 MS. YASSERI: Mr. Skow testified he doesn't recall Mr.
22 Vartan saying that.

23 JUDGE SANDRON: Right. I don't think that --

24 MS. YASSERI: These are Mr. Vartan's notes.

25 JUDGE SANDRON: -- and he can't be refreshed by someone --



1 yeah. He can't be refreshed by someone else's statement.

2 MR. HILGENFELD: I'm not asking to refresh; I'm asking --
3 I'm pointing him to admissible evidence that's been put in the
4 record, and I'm asking what's meant by his notes.

5 MS. YASSERI: These are --

6 JUDGE SANDRON: Well no --

7 MS. YASSERI: -- the -- well, you can't ask --

8 JUDGE SANDRON: -- about someone else's notes.

9 MS. YASSERI: -- I'm sorry, Your Honor. You're asking --

10 MR. HILGENFELD: I'm not asking to refresh his
11 recollection. I'm pointing him to -- evidence that's been put
12 into evidence. I now have a question about a different
13 document.

14 JUDGE SANDRON: All right. So then there's no --

15 MS. YASSERI: Your Honor, may I be heard?

16 JUDGE SANDRON: -- so that's not really asking the
17 question then.

18 MR. HILGENFELD: I'm just -- do you see bullet point 3,
19 Mr. Vartan (sic)?

20 JUDGE SANDRON: All right. But for what --

21 MR. HILGENFELD: Now I'm going to turn his attention --

22 JUDGE SANDRON: All right.

23 MR. HILGENFELD: -- back to his notes.

24 JUDGE SANDRON: All right.

25 Q BY MR. HILGENFELD: Mr. Vartan, do you have your notes

1 now in front of you?

2 MS. YASSERI: Mr. Skow.

3 MR. HILGENFELD: Mr. Skow; excuse me. Thank you.

4 MS. YASSERI: Can you clarify which GC exhibit, Mr.
5 Hilgenfeld?

6 MR. HILGENFELD: Yeah, GC 159.

7 THE WITNESS: Okay. I have it in front of me.

8 MR. HILGENFELD: Thank you.

9 Q BY MR. HILGENFELD: And if I heard correctly yesterday,
10 halfway down page 2, you have applying supplementals. Do you
11 see that?

12 A Yes.

13 Q And I understood your testimony that Brian Vartan made the
14 statement about applying the supplementals. Did I understand
15 that correctly?

16 JUDGE SANDRON: Well, I think I might be -- it might be
17 already in the record. But do you recall what we said about
18 applying supplementals? I think that's as far as we can go
19 with an answer. That -- as best as you recall now, what did he
20 say about supplementals?

21 THE WITNESS: I recall that he wanted to put supplementals
22 on right then and there. I do recall us having that discussion
23 and we brought up the --

24 JUDGE SANDRON: All right. Well, before you go further,
25 did he say anything else about the supplementals? Just what he

1 said. Do you remember anything else?

2 THE WITNESS: That if we agreed on something with
3 supplementals, that he would put two supplementals on right
4 away. That's what I recall.

5 JUDGE SANDRON: All right. Anything else, or is that all
6 you remember that he said?

7 THE WITNESS: That's all I --

8 JUDGE SANDRON: All right.

9 THE WITNESS: -- recall.

10 JUDGE SANDRON: Well, I think that's the end of the
11 inquiry as far as what the witness remembers. You can't really
12 be refreshed by someone else's notes.

13 MR. HILGENFELD: I had no other questions on that --

14 JUDGE SANDRON: All right.

15 MR. HILGENFELD: -- issue.

16 JUDGE SANDRON: Okay.

17 Q BY MR. HILGENFELD: Mr. Skow, at the top of your notes on
18 GC-159, you have Vane dash one man. Do you see that?

19 A What page was that?

20 Q Page 2. Very front -- very first line. GC Exhibit 159.

21 A Yes.

22 Q Do you recall Mr. Vartan telling you that Vane was
23 operating one-man barges?

24 A I recall us asking the question if Vane operated with a
25 one-man barge.

1 Q I understood your testimony yesterday that from Vane down
2 to applying supplementals were all statements made by Brian
3 Vartan. Do I have that incorrect?

4 A All I could state to this is we asked Brian about if Vane
5 operated with a one-man barge.

6 JUDGE SANDRON: Did he say anything about Vane?

7 THE WITNESS: We did. We brought it up.

8 JUDGE SANDRON: All right. Then did he -- you say you
9 asked about it; did he answer?

10 THE WITNESS: He said he didn't know.

11 Q BY MR. HILGENFELD: Okay. So -- and maybe my notes are
12 wrong. So Vane one man, who at the IBU asked that question?

13 A I believe I did.

14 Q On the next points going down from safety down to applying
15 supplementals, my notes indicate that you had stated Brian
16 Vartan made statements about that. Do I have that correct or
17 incorrect?

18 A Well, Starlight, yes; safety, I don't know. And I was
19 going down to where?

20 Q Applying supplementals?

21 A Yes.

22 Q Okay. So the rest of those are statements that Brian
23 Vartan had made to you on the November 9th, 2020 meeting?

24 A I believe so, yes.

25 Q Mr. Skow, you testified regarding a meeting on November

1 9th, and then a subsequent conversation, phone conversation on
2 November 25th. You did not have any testimony, to my
3 recollection yesterday, regarding a meeting on November 19th,
4 2020. Do you recall having a meeting on November 19th, 2020?

5 A I do not recall.

6 Q I'm going to turn your attention to Respondent's 28 that's
7 in the big book. I may ask you to review Respondent's -- oh --
8 review Respondent's 28. These are -- been admitted into
9 evidence, notes by Brian Vartan, to see if this refreshes your
10 recollection.

11 MS. YASSERI: Objection, Your Honor. This is not proper.

12 JUDGE SANDRON: Yeah, I agree. I don't think he can be
13 refreshed by --

14 MS. YASSERI: Refreshing his recollection.

15 JUDGE SANDRON: -- someone else's statement. With his own
16 statement, yes, but --

17 Q BY MR. HILGENFELD: Mr. Skow, do you recall having a
18 meeting where you introduced Mr. Sogliuzzo as a second store
19 steward for PIC?

20 A I do not recall.

21 JUDGE SANDRON: All right. Do you remember a November
22 19th meeting at all? Think for a moment.

23 THE WITNESS: No, I don't.

24 MR. HILGENFELD: Do you recall a meeting where the members
25 questioned Brian Vartan's involvement in the RFP process?

1 JUDGE SANDRON: Any meeting at which -- all right. Don't
2 look at the document.

3 THE WITNESS: No, I'm trying not to.

4 JUDGE SANDRON: Well, we'll just put it down because --

5 THE WITNESS: Yeah. It's hard to look at -- not to look
6 at.

7 JUDGE SANDRON: Yeah. Okay.

8 THE WITNESS: I do not recall.

9 JUDGE SANDRON: Okay.

10 Q BY MR. HILGENFELD: Do you recall a meeting where the IBU
11 asked to take the ability to take a leave of absence to market
12 other companies if a supplemental schedule was implemented?

13 A I -- I had that conversation with Brian Vartan on a phone
14 call on November 25th.

15 Q Okay. Do you recall having that conversation in a meeting
16 at any point in time?

17 A No, I don't recall.

18 Q I'll turn your attention to -- well, before that. Do you
19 recall presenting the MOU that you testified yesterday to Mr.
20 Vartan on or about November 23rd, 2020?

21 A Yes.

22 Q And I believe you testified regarding the subsequent
23 conversation you had with Mr. Vartan on November 25th, 2020,
24 correct?

25 A Yes.

1 Q At that meeting -- or during that phone conversation,
2 excuse me -- do you recall Mr. Vartan telling you that the
3 changes proposed were insignificant?

4 A No, I don't recall.

5 Q Do you recall Mr. Vartan informing you the changes
6 proposed by the Union would create a greater burden on Westoil?

7 A I don't recall.

8 Q Do you recall Mr. Vartan telling you the 90-day limitation
9 was laughable?

10 A I know he was not in agreement with the 90 days. I don't
11 know if he stated -- stated it in that context.

12 Q Mr. Vartan, I'll turn your attention to GC Exhibit 33,
13 which is the email and the MOU. Should be loose in front of
14 you.

15 A What was the --

16 Q It should be a loose document that's in front of you.
17 It's not in a binder.

18 A Oh. Okay. What was the number, please?

19 Q 33.

20 A 33. Thank you.

21 JUDGE SANDRON: I don't -- was that introduced -- I think
22 it was already earlier.

23 MR. HILGENFELD: It was introduced yesterday, I believe.

24 JUDGE SANDRON: No, I'm not sure.

25 MS. YASSERI: No, it was introduced earlier. It was --

1 yes.

2 JUDGE SANDRON: I think it was earlier because we started
3 with 34.

4 MR. HILGENFELD: Oh, then there's a GC exhibit notebook
5 behind you, Mr. Vartan, if you don't have it in front of you.

6 JUDGE SANDRON: Right. I don't think I -- I think
7 there's -- I think that -- let's see. This -- do you have
8 another copy of that? I think I have all the Respondent's
9 exhibits. Maybe the General Counsel can get me a copy of that.
10 Thank you. There. Okay. I have it now. This is GC-33.

11 Q BY MR. HILGENFELD: Mr. Vartan (sic), looking at page 2 on
12 GC Exhibit 33, does that begin with the MOU that you presented
13 to Mr. Vartan?

14 A Yes.

15 Q And this was -- you would agree the term of this -- well,
16 it speaks for itself. On number one, I believe there is a
17 typo. Was 13.2 supposed to be 13.2 or 13.1?

18 A It -- it may have.

19 JUDGE SANDRON: Well, okay. I think we could compare,
20 though, with the contract.

21 THE WITNESS: Yeah, it -- I believe -- I believe he's
22 correct. It should be 13 one. I'm looking at the numbering.

23 JUDGE SANDRON: Are you sure?

24 THE WITNESS: I mean --

25 Q BY MR. HILGENFELD: When it's referring to 13.2 there,

1 that's referring to a contract section provision?

2 A Yes.

3 Q Okay.

4 JUDGE SANDRON: Oh, could you just remember to speak up.

5 THE WITNESS: Yes.

6 Q BY MR. HILGENFELD: You've testified that the standard
7 crewing level in November of 2020 was 12 tanker men, 10
8 engineers and 0 deckhands. Correct?

9 A Yes.

10 Q How long had that been the standard crewing level at
11 Westoil, to your knowledge?

12 A I do not know.

13 Q Do you know if it was shorter or longer than a year?

14 A I do not know.

15 Q Okay. You would agree that paragraph 2 did not accept the
16 employer's original interpretation of just keeping the language
17 as it is for supplemental language and allow the company to
18 issue supplemental proposals?

19 MS. YASSERI: Objection.

20 JUDGE SANDRON: It might be a little bit confusing.

21 MR. HILGENFELD: Yes, terrible question.

22 JUDGE SANDRON: Maybe you can --

23 MR. HILGENFELD: I'll reframe.

24 Q BY MR. HILGENFELD: And I'm turning your attention to
25 paragraph 2, Mr. Vartan -- ah, Mr. Skow. Good lord. You have

1 struck out 9.3(b) filing a nontemporary vacancy for 180-hour
2 positions. Do you see that?

3 A Yes.

4 Q You've also added a provision not being subject to 9.9(k).
5 Do you see that?

6 A Yes.

7 Q Isn't it true, Mr. Skow, that the elimination of 9.3(b)
8 and 9.9(k) would allow seniority casuals at will to work at
9 other companies?

10 A I am not aware of that because the petrol men had assisted
11 me in a drafting of this proposal. So --

12 Q Are you aware that 9.9(k) deals with when seniority will
13 be broken in the event of turning down a nontemporary vacancy
14 of 100-hour position?

15 A Yes, I am aware.

16 Q And nontemporary vacancies under the contract include
17 scheduled positions and supplemental positions. Correct?

18 A Yes.

19 Q So by eliminating that provision, seniority would not be
20 broken if an employee did not accept a supplemental position.
21 Correct?

22 A Okay.

23 Q The Union's proposal did not address the third man
24 requirement, correct?

25 A That's correct.

1 Q The Union's proposal did not address the company's request
2 to maintain the current standard crewing level and add
3 supplemental crewing. Correct?

4 JUDGE SANDRON: Do you understand the --

5 THE WITNESS: I -- I don't. I -- I'm trying to follow.
6 I'm trying to follow him.

7 MR. HILGENFELD: I -- and I'm doing a poor job late in the
8 morning, so I apologize, Mr. Skow.

9 Q BY MR. HILGENFELD: The Union's proposal did not accept
10 the company's interpretation of the supplemental provisions in
11 the Labor agreement?

12 A No, but we tried to. By offering what the -- what the
13 crewing was then to make it the -- set the standard crewing
14 level at that level to allow the company to put on
15 supplementals.

16 Q But as it was then, if an employee refused a supplemental
17 position, they lost seniority, correct?

18 A Yes.

19 JUDGE SANDRON: And just so we clarify, the Union's
20 proposal would have -- how would that have changed that?

21 THE WITNESS: What we had proposed in here that the last
22 two people would -- it would -- the work would be covered. It
23 would -- even though all those guys could turn it down and
24 still continue to work at the company, we would still have --
25 the last two people would be responsible for covering that

1 work.

2 Q BY MR. HILGENFELD: Prior to your proposal and the company
3 contract, Mr. Vartan, supplemental --

4 JUDGE SANDRON: Mr. Skow.

5 MS. YASSERI: Mr. Skow.

6 Q BY MR. HILGENFELD: Good Lord. I'll make a note to
7 myself. I apologize, John. A supplemental schedule was given
8 in order of seniority.

9 A Yes.

10 Q And the most senior person that was offered the position
11 would lose seniority if they did not accept that supplemental
12 schedule, correct?

13 A Yes.

14 Q Okay. The Union's proposal did not address voluntary
15 callouts, correct?

16 A We believe with this proposal that it wouldn't help with
17 the problem.

18 Q But there would still be voluntary callouts at overtime
19 rate, correct?

20 A Yes, it could.

21 Q And it did not address mandatory callouts at double time,
22 correct?

23 A Yes, in the same -- looking at it in the same way.

24 Q In that 9 -- after 90 days, the MOU would effectively go
25 away, correct?

1 A It could unless we agreed to extend it another 90 days.

2 Q The Union would have to agree to any type of extension for
3 it to go forward, correct?

4 A The -- the Union and the company, yes.

5 Q On November 29th, 2020, do you recall sending an email to
6 Mr. Houghton? It's GC Exhibit 35, which I do think was given
7 yesterday.

8 JUDGE SANDRON: Yes.

9 Q BY MR. HILGENFELD: It's -- it should be loosely -- one of
10 the loose documents there, John.

11 A Oh, okay. Got it. That was the MOU, correct?

12 Q It was an email you sent to Doug Houghton on November
13 29th, 2020, at 9:11 a.m.

14 A Okay.

15 Q Is the -- the secondary one.

16 A Okay.

17 Q The first one was Doug responding to you at 12:28 p.m.

18 JUDGE SANDRON: That's 33.

19 MR. HILGENFELD: 35.

20 JUDGE SANDRON: Oh, 35.

21 THE WITNESS: 31, 34, 35. Okay.

22 Q BY MR. HILGENFELD: On the second paragraph, if I heard
23 your testimony correctly yesterday, you were seeking Doug's
24 help regarding the conversation you'd been having with Brian
25 Vartan regarding Westoil, correct?

1 A That's correct.

2 Q Why did you reach out to Doug Houghton on that?

3 A Because we know Doug had prior experience dealing with the
4 collective bargain agreement, and I was having kind of issues
5 with our -- with my committee being able to trust Brian. And I
6 figured by having Doug kind of intervene and help out that we
7 could get through this. The committee wanted me to talk to
8 Doug.

9 Q Okay. So reaching out to Doug was at -- on your volition.
10 Mr. Houghton hadn't requested it?

11 A I -- I don't --

12 Q It was your choice to reach out to Mr. Houghton. It
13 wasn't his asking you to reach out to him.

14 A No -- yeah. I -- I mean I reached out to him, yes. My
15 decision to do.

16 Q Mr. Hough- -- Mr. Skow, good Lord. Now you're -- now
17 you're Doug. I'm going to give you every sim- -- every role in
18 the sun, John.

19 A You're going to be calling me Mr. Franco next.

20 Q I --

21 A Sorry. I just had to say that.

22 Q I'm going to turn your attention to General Counsel
23 Exhibit 36.

24 A Yes.

25 Q This was an email that you sent to -- that Brian sent to

1 you on December 2nd, 12:35. It's the --

2 A Yes.

3 Q Does everybody have that email?

4 JUDGE SANDRON: I think so. You got it, Mr. Skow?

5 THE WITNESS: Yes, I do.

6 JUDGE SANDRON: Okay.

7 Q BY MR. HILGENFELD: Mr. Skow, I'm going to turn your
8 attention to the second page. Well, actually, I'm going to
9 turn your attention to the third page, and it's the very first
10 email.

11 A Okay.

12 Q On page 3.

13 A Page 3. Okay.

14 Q Had -- on your November 25th, 2019 phone conversation with
15 Mr. Vartan, was there an expectation that the IBU would come
16 back to Mr. Vartan with some revised proposals?

17 A At that time, I was willing to try anything.

18 Q Did Mr. Vartan expect you to come back with him with
19 something, to your understanding?

20 MS. YASSERI: Objection. Calls for speculation.

21 JUDGE SANDRON: Yeah. Maybe you --

22 Q BY MR. HILGENFELD: Did you express in --

23 MR. HILGENFELD: I'll rephrase --

24 JUDGE SANDRON: Yes.

25 MR. HILGENFELD: -- Your Honor.

1 Q BY MR. HILGENFELD: Did you give any indication to Mr.
2 Vartan that you had talked to the committee members and get
3 back to him?

4 JUDGE SANDRON: Well, actually, don't -- don't read over
5 it.

6 THE WITNESS: Oh. Oh, I'm sorry. I --

7 JUDGE SANDRON: Just --

8 THE WITNESS: -- I'm trying to think --

9 JUDGE SANDRON: Yeah, I get it.

10 THE WITNESS: -- but --

11 JUDGE SANDRON: How -- maybe -- put another way. When the
12 meeting ended, what was your -- your understanding of what the
13 parties would be doing after that, if anything -- if --

14 THE WITNESS: I don't recall exactly what I told Brian
15 about that -- about if we're going to get back to him or --

16 JUDGE SANDRON: All right.

17 THE WITNESS: -- he's going to -- it -- I just went back
18 and talked to my committee and just tried to get -- I -- I --
19 all I wanted to do was try to get this resolved. That's all I
20 was trying to do.

21 Q BY MR. HILGENFELD: So you first -- on General Counsel 36,
22 it reads, "I met with the group this morning." What's the
23 "group" you're referring to?

24 A My committee.

25 Q Next sentence, "Unfortunately, I did all I could for now."

1 What were you trying to do?

2 A I went back to my committee and tried to see if there was
3 any movement, if we can move in any direction to help with that
4 MOU proposal to get it -- to at least to come to some type of
5 agreement to work towards Brian.

6 Q And then if you look at the top email, this is from you
7 back to Brian. "I share your frustration." Do you see that?

8 A Yes, I do.

9 Q What "frustration" did you share with Brian Vartan?

10 A I think over the whole process.

11 Q Mr. Skow, did you un- -- did you have an understanding
12 that Mr. Vartan and Westoil had to get agreement before it
13 could change any crewing or manning requirements?

14 A Can you repeat that question again, please?

15 Q Yeah. In November of 2020 --

16 A Okay.

17 Q -- did you have an understanding as whether Westoil needed
18 the IBU's agreement to change any crewing or manning
19 requirements?

20 A Yes, by negotiating, yes.

21 Q And they had to -- they had to reach an agreement with the
22 IBU before they could make any types of changes to third man,
23 for instance.

24 A A -- yes.

25 Q I'm going to turn your attention to General Counsel's 36,

1 the second page. This is an email from Brian to you at 10:39
2 a.m. Do you see that?

3 A Yes.

4 Q Mr. Vartan states,

5 "We came to you and informed you that our current
6 manning requirements, crewing matrix, and the overall
7 cau- -- operating costs under the current labor
8 agreement were not competitive in the L.A. Long Beach
9 harbor due to the addition of several non-Union
10 companies that have set up operations without
11 resistance."

12 Do you see that sentence?

13 A Yes.

14 Q Did Mr. -- did Westoil come to you regarding changing
15 manning requirements in November or prior to this email?

16 A I would have to say yes.

17 Q Did Westoil come to you about changing the crewing matrix
18 prior to this email?

19 A Yes.

20 Q Did Mr. Vartan come to you about changing the overall
21 operating costs in the labor agreement prior to this email?

22 A I have to say yes.

23 Q On the second paragraph, the second sentence --

24 JUDGE SANDRON: All right. I don't know if it -- you
25 really should go through -- I think you should just ask him the

1 questions without referring to a document that someone else
2 prepared. So if you want to ask him questions that relate to
3 that document and see what he says, that's fine, but I don't
4 think you -- it's appropriate to read him what someone else
5 said and -- and then ask questions about -- from the document.
6 So if you want to just ask him questions without him looking at
7 the document, you know, that's fine, but I think that'd be a
8 cleaner way to do it.

9 MR. HILGENFELD: Well, I'm not sure I can do it on this
10 next question, but I'll do it on future questions, Your Honor.
11 But allow some leniency with one question.

12 JUDGE SANDRON: Well, does -- does General Counsel object
13 to that or not?

14 MS. YASSERI: Yes, Your Honor.

15 JUDGE SANDRON: What's that?

16 MS. YASSERI: Yes.

17 JUDGE SANDRON: Yes, I think if -- it's better not to read
18 him what's in someone else's notes or statements.

19 MR. HILGENFELD: Well, this was -- this was an email to
20 Mr. Skow --

21 JUDGE SANDRON: Right --

22 MR. HILGENFELD: -- so he --

23 JUDGE SANDRON: -- but then it's in the record. I mean --
24 well, I -- all right. Well, I don't know if we want to -- I
25 mean, it's -- it's in the record. It's in the document.

1 MR. HILGENFELD: Well, this is Mr. Vartan's statement, so
2 I'm getting confirmations to if Mr. Skow agreed to certain
3 pieces that Mr. Vartan stated.

4 JUDGE SANDRON: Well, I guess you -- I mean, I suppose you
5 could ask him if that's a correct statement as he recalls of
6 it, and then he can say yes or no.

7 MR. HILGENFELD: I'll do that, Your Honor.

8 Q BY MR. HILGENFELD: Mr. Skow, looking at the second
9 paragraph, second sentence, Mr. Vartan states,

10 "We offer that having supplemental schedules
11 acknowledged would have shown an effort to move
12 forward in that direction."

13 Do you see that sentence?

14 A Yes.

15 Q Do you agree with that sentence? That it was offered?

16 JUDGE SANDRON: Do you -- do you recall that or not?

17 THE WITNESS: Yes, I -- he did bring that up.

18 JUDGE SANDRON: Now, remember, this is your recollection
19 so --

20 THE WITNESS: Yes.

21 JUDGE SANDRON: If you recall it, that's fine. And if you
22 don't, you know, you can say so.

23 THE WITNESS: Oh, I recall that.

24 JUDGE SANDRON: All right.

25 THE WITNESS: Yes.

1 Q BY MR. HILGENFELD: Mr. Vartan says the conversation
2 happened six weeks ago, and this was December 1st, 2020. Do
3 you recall having conversations with Mr. Vartan before the
4 November 6th, 2020, meeting?

5 A No, I don't recall.

6 Q I'm going to turn your attention to your -- I guess you
7 haven't -- I would ask for the March 22nd, 2021, affidavit.
8 Mr. Skow, do you recall having a board affidavit taken on March
9 22nd, 2021?

10 A Yes.

11 Q Did you understand this was under oath?

12 A Yes.

13 Q Did you have an opportunity to read and re- -- correct any
14 statement that you made?

15 A Yes.

16 Q Did you sign the statement?

17 A Yes, I did.

18 Q Was it sworn and acknowledged by Rachel Cherem, board
19 agent of Region 19?

20 A Yes.

21 JUDGE SANDRON: You want to spell her name just because --

22 MR. HILGENFELD: Certainly.

23 JUDGE SANDRON: -- we don't have it.

24 MR. HILGENFELD: Rachel is R-A-C-H-E-L, Cherem,

25 C-H-E-R-E-M.

1 Q BY MR. HILGENFELD: On page 2, the last paragraph, please
2 read -- please read that sentence -- that paragraph to
3 yourself. And it continues onto page 3.

4 A Okay.

5 Q Does that help refresh your recollection --

6 JUDGE SANDRON: Do you want to just put down the document?

7 Q BY MR. HILGENFELD: Does that help refresh your
8 recollection as to whether you had a conversation with Mr.
9 Vartan before meeting on November 6th, 2020?

10 A Yes.

11 Q And the Glencore contract was discussed during that
12 conversation, correct?

13 A I don't recall if it was exactly the Glencore contract.

14 Q Did you have an understanding of whether concessions may
15 need to be made?

16 A That was my understanding.

17 Q Did you understand that Mr. Vartan on December 1st had
18 already submitted a bid for the Westoil work?

19 MS. YASSERI: Objection. Vig -- vague as to the date when
20 Mr. Sko -- Skow understood.

21 JUDGE SANDRON: Yes.

22 MR. HILGENFELD: I thought --

23 MS. YASSERI: Yeah.

24 MR. HILGENFELD: -- I said December 1st, but I'll reframe.

25 Q BY MR. HILGENFELD: On December 1st, Mr. Skow, did you

1 have an understanding of whether Westoil had already submitted
2 a bid in the RFP process?

3 A My understanding was they were supposed to have one done
4 by November 30th.

5 Q So by December 1st, did you have an understanding whether
6 that was done?

7 A Yes.

8 JUDGE SANDRON: Well, why on earth did you -- you
9 understood that they were supposed to have the bid in by that
10 date.

11 THE WITNESS: That's what they told me, yes.

12 JUDGE SANDRON: But they needed to have it in, but you
13 don't know -- you didn't know at the time for a fact that they
14 actually submitted it --

15 THE WITNESS: I --

16 JUDGE SANDRON: -- did you?

17 THE WITNESS: -- no, I did not know at that time.

18 Q BY MR. HILGENFELD: Mr. Skow, I'm going to turn your
19 attention to Mr. Vartan's email to you on December 1st, 2020.

20 A Okay.

21 Q Did you have an understanding of whether you'd be --
22 whether Westoil would be given another opportunity to revise
23 this bid after November 30th?

24 JUDGE SANDRON: Well, okay, if it says so in the email,
25 then --

1 MS. YASSERI: I'm going to object to this line of
2 questioning. The -- the emails speak for themselves (sic).

3 JUDGE SANDRON: -- it -- right. Then, we don't need him
4 to say what was in the email, and we assume that then he had
5 knowledge of whatever's in the email.

6 Q BY MR. HILGENFELD: Mr. Vartan's email to you talked about
7 cost-cutting measures like eliminating the third man, correct?

8 JUDGE SANDRON: Well, the document does speak for itself.

9 MR. HILGENFELD: It does, but Mr. Skow testified --

10 JUDGE SANDRON: Yes.

11 MR. HILGENFELD: -- yesterday --

12 JUDGE SANDRON: Yeah.

13 MR. HILGENFELD: -- the first time he had heard about the
14 third --

15 JUDGE SANDRON: I --

16 MR. HILGENFELD: -- man elimination was on January 15th or
17 January 13th --

18 JUDGE SANDRON: I see.

19 MR. HILGENFELD: -- from Doug Houghton.

20 JUDGE SANDRON: I see, although Counsel can point it out.
21 I mean, in some cases if Counsel wants to have something, you
22 know, specified on the record, you can point out what's in the
23 statement -- I mean, in the email. It is evidence. You don't
24 need to ask him if it says --

25 MR. HILGENFELD: Sure.

1 JUDGE SANDRON: -- says that. You can just point out for
2 the record that it says in the email what it says. You -- you
3 can point that out.

4 MR. HILGENFELD: I'll point out General Counsel Exhibit
5 36, email from Brian Vartan, last sentence of the email, time
6 10:39:

7 "The IBU should've considered real cost-cutting
8 measures like a reduction in hourly rates, benefits,
9 limiting (sic) third man position, covering more with
10 a deckhand, and/or switching to the company medical."

11 JUDGE SANDRON: All right. Okay. That -- that's noted on
12 the record, so it's in the record, and it's noted on the
13 record. And --

14 Q BY MR. HILGENFELD: Mr. Skow, turning your attention to
15 the December 9th, 2020, meeting with the IBU and Westoil. My
16 notes are unclear. Do you recall who was present for Westoil
17 at that meeting?

18 A All I recall in that meeting was Brian Vartan and Matt
19 Hathaway.

20 Q Do you -- do you recall being told that Westoil had lost
21 the bid for the RFP?

22 A No, I don't recall that.

23 Q How would you describe the demeanor of that meeting?

24 A Not very pleasant.

25 JUDGE SANDRON: And what did you see or hear that led you

1 to that conclusion?

2 THE WITNESS: Well, I was trying to obtain information,
3 and it was like a wasted meeting. That's how I -- I felt.

4 JUDGE SANDRON: All right. Well --

5 THE WITNESS: Yeah.

6 JUDGE SANDRON: -- was it by words that led you to that,
7 by gestures, by --

8 THE WITNESS: It was kind of -- it was a hostile meeting,
9 I would have to say.

10 JUDGE SANDRON: And was that by -- by what? By gesture,
11 tone of voice, or --

12 THE WITNESS: Tone --

13 JUDGE SANDRON: -- words that were said?

14 THE WITNESS: -- tone of voice.

15 Q BY MR. HILGENFELD: Did you issue hostility or profanities
16 to Mr. Vartan and Mr. Hathaway?

17 A I don't recall that.

18 JUDGE SANDRON: Did you use obscenities?

19 THE WITNESS: I -- I don't remember, sir.

20 JUDGE SANDRON: All right.

21 Q BY MR. HILGENFELD: Mr. Vartan, do you recall having a
22 phone conver- --

23 MS. YASSERI: Mr. Skow.

24 Q BY MR. HILGENFELD: Good Lord. I'm sorry, John. By the
25 end of your testimony, I'll -- I'll promise I'll get it. Mr.

1 Skow, do you recall having a phone conversation with Mr.
2 Houghton on December 10th, 2020?

3 A I -- I don't recall.

4 Q You testified, if I have it correct, that you met for
5 lunch with him on December 11th; is that correct?

6 A That -- that is correct.

7 Q Even if it's not December 10th, do you recall having a
8 phone conversation with Mr. Skow (sic) prior to December 11th's
9 lunch?

10 MS. YASSERI: Objection. You said Mr. Skow. I think you
11 meant Mr. Houghton.

12 Q BY MR. HILGENFELD: Prior to your December 11th meeting
13 with Mr. Houghton for lunch, Mr. Skow, do you recall having a
14 phone conversation with Mr. Houghton leading up to that lunch
15 meeting?

16 A Yes, I do recall having a phone call.

17 JUDGE SANDRON: You know, it's about 12:30. Maybe you
18 want to finish with that subject, and then we can take our
19 recess.

20 MR. HILGENFELD: Sounds good, Your Honor.

21 Q BY MR. HILGENFELD: Do you recall Mr. Houghton informing
22 you the IBU had not been successful in the RFP process during
23 the phone conversation?

24 A I don't recall.

25 Q Do you recall asking Mr. Houghton if he could get cost

1 info for you on the labor costs?

2 A I don't recall.

3 Q Do you recall Mr. Houghton informing you he would try to
4 do what he could to see if he could get labor costs for you
5 even if you didn't ask for it?

6 A I don't recall.

7 MR. HILGENFELD: This is a good time, Your Honor.

8 JUDGE SANDRON: Okay. It's now 12 -- well, actually,
9 it's -- well, it's close to 12:30. It's about two minutes to
10 12:30, and I think the parties were going to print out the --
11 the cases, so should we take an hour --

12 MR. HILGENFELD: Certainly.

13 JUDGE SANDRON: -- and come back at 1:30?

14 MS. YASSERI: Would it be possible to come back at 1:15,
15 Your Honor, since we have to go print the cases and --

16 JUDGE SANDRON: Well, actually, it's 12:30.

17 MS. YASSERI: -- I'm sorry, 1:45 --

18 JUDGE SANDRON: Yes.

19 MS. YASSERI: -- until 1:45. I didn't realize it was
20 12:30 already.

21 JUDGE SANDRON: All right. We will then adjourn until
22 1:45 p.m.

23 MS. YASSERI: Okay. Thank you.

24 (Off the record at 12:27 p.m.)

25 JUDGE SANDRON: Back on the record. Counsels have

1 provided me with their respective cases in support of their
2 respective positions. I think it's safe to be said that this
3 is not a legal issue that can be decided on the spot and
4 without the ability to do my own research.

5 These cases are helpful, and they will be considered, but
6 there -- there's -- there are two possible ways to go about
7 this. One is to take the testimony, subject to it being
8 basically not considered if the General Counsel's position is
9 correct, and the other -- I don't know if Mr. Hilgenfeld wants
10 to make an offer of proof outside the witness' presence.

11 MR. HILGENFELD: We would prefer to move forward, take the
12 testimony. If you end up striking that -- you're the sole
13 decision-maker in this, so you can certainly decide what's not
14 appropriate at a later point -- that's your decision -- would
15 be our preference.

16 JUDGE SANDRON: Again, it -- you know, I think I've said
17 this before. We have a lot of complex issues in this case, and
18 it's hard sometimes to know as we're going through the trial
19 what will or will not be appropriately considered. So as I've
20 said earlier to my general philosophies, it's better to err on
21 the side of overinclusion than to run the risk of excluding
22 what might end up being considered probative evidence. The
23 cases that I've been provided -- so they're on the record and
24 they will be considered -- we have MV Transportation. And that
25 was 368 NLRB No. 66 (2019) that the General Counsel cited. And

1 then we have 217 NLRB 148, which is Interlakes Engineering
2 Company, and that was a 1975 board decision that the Respondent
3 has cited as well as Sheet Metal Workers' International
4 Association 278 NLRB 638 (1986).

5 Now, I might suggest this to the parties. It's up to
6 counsels, but -- and I -- you're going to be determining at a
7 later point what you think, you know, is relevant evidence. So
8 I would just suggest that if -- you know, depending on how you
9 view the case after the conclusion and you go through the
10 transcript and you review everything in the law, if you're not
11 going to rely -- if the Respondent's not going to rely on his
12 testimony, you know, after you review everything and decide
13 whether you want to include it in your brief and have it
14 considered, I would suggest you let the General Counsel know,
15 if possible. And then she doesn't have to, you know, address
16 it.

17 MR. HILGENFELD: We -- I have no problem doing that, Your
18 Honor.

19 JUDGE SANDRON: That's a suggestion.

20 MR. HILGENFELD: I would (indiscernible).

21 JUDGE SANDRON: Right.

22 MR. HILGENFELD: If I don't get back to you, it's because
23 I'm going to be putting it in.

24 MS. YASSERI: Okay.

25 JUDGE SANDRON: We don't expect it to be today, but you

1 know -- but after the case is concluded and you start writing
2 your brief on what you consider to be the important, you know,
3 points. So I'll allow the testimony again, subject to not
4 being considered if I determine at a later point that the
5 General Counsel is correct, and Mr. Hilgenfeld, you want to
6 rely on it in your, you know, arguments in your brief.

7 MR. HILGENFELD: Understood, Your Honor. Thank you.

8 JUDGE SANDRON: Okay, so you can go forward with those
9 questions.

10 MR. HILGENFELD: Thank you.

11 Q BY MR. HILGENFELD: Mr. Skow --

12 MR. HILGENFELD: Are we all ready? Okay. Thank you.

13 **RESUMED CROSS-EXAMINATION**

14 Q BY MR. HILGENFELD: Mr. Skow, on your December 11th lunch
15 with Doug Houghton, do you recall that lunch?

16 A Yes.

17 Q Did you tell Mr. Houghton that you didn't want to go to
18 your members regarding proposals to crewing changes and other
19 changes because you had an election that was ongoing?

20 A No.

21 Q Did you give any indication to Mr. Skoughton (sic) that
22 you had an IBU election ongoing at that time?

23 JUDGE SANDRON: Well, I think that might be hard for him
24 to answer as an indication. Maybe --

25 MR. HILGENFELD: Fair enough. I'll try to rephrase.



1 JUDGE SANDRON: -- you can rephrase this.

2 Q BY MR. HILGENFELD: What do you recall -- did you say
3 anything about the IBU election at that lunch meeting?

4 A The only thing I recall is I asked him about -- about --
5 that I may -- there's a chance I may not be reelected, if I was
6 going to have any issues coming back to work.

7 Q Mr. Skow, I'm going to turn your attention to General
8 Counsel 159. These are your handwritten notes on November 9th
9 and November 25th that should be in the papers right in front
10 of you.

11 A Okay.

12 JUDGE SANDRON: Right here. I have -- I think maybe in
13 the next -- excuse me. I'm getting --

14 THE COURT REPORTER: These are the low numbers.

15 JUDGE SANDRON: Oh, (Indiscernible). Thank you. The
16 court reporter has graciously put the documents in order since
17 it'd be much easier to locate them, so 159 is put right here.
18 Okay. I found it.

19 Q BY MR. HILGENFELD: On the third page halfway down,
20 there's -- looks to be a November 25th-BV. Do you see that?

21 A Yes.

22 Q What does "BV" stand for?

23 A BV, Brian Vartan.

24 Q And did this involve the phone conversation, as I
25 understand your testimony, on November 25th with Mr. Vartan?

1 A Yes.

2 Q Where it says, other options-do handcuff us, is that a
3 misprint?

4 A That's -- it's -- scribble notes that probably most likely
5 came up there in the conversation.

6 Q Is this something that Mr. Vartan had asked you, or you
7 had talked to Mr. Vartan?

8 A I'm not sure.

9 Q Do you recall anything in the conversation about Mr.
10 Vartan asking you to handcuff the company?

11 A No.

12 JUDGE SANDRON: Do you remember what the handcuff notation
13 referenced?

14 THE WITNESS: I can't really recall on that.

15 JUDGE SANDRON: So it says, handcuff us, what -- do you
16 recall whether that was (Indiscernible)?

17 THE WITNESS: That -- that probably came from Brian
18 Vartan.

19 Q BY MR. HILGENFELD: Would "us" be Westoil?

20 JUDGE SANDRON: If you don't remember --

21 THE WITNESS: I -- I --

22 JUDGE SANDRON: -- that's fine.

23 THE WITNESS: -- honestly, I -- I don't. I was trying to
24 talk and take notes at the same time.

25 JUDGE SANDRON: But the "other options" you recall, was he

1 was talking about "other options" or he initiated that, or was
2 it the Union that raised "other options", if you recall?
3 Realizing it's been a while.

4 THE WITNESS: I -- I don't recall, sir.

5 JUDGE SANDRON: Okay.

6 THE WITNESS: I --

7 Q BY MR. HILGENFELD: On December 28th, I understand your
8 testimony that you had a phone conversation with Doug Houghton
9 at that time.

10 A Yes.

11 Q And I apologize if you went through this yesterday, but
12 Mr. Skow, on December 28th, did Mr. Houghton inform you that
13 Westoil was not awarded the Glencore contract?

14 A That's correct.

15 Q What else do you recall Mr. Houghton informed you on
16 December 20th?

17 A He explained the -- he told me about the asset exchange.

18 Q And --

19 A I remember that.

20 Q The asset exchange would be between Saltchuk --

21 A Saltchuk and --

22 Q -- and Centerline?

23 A Yes.

24 Q And do you have an understanding whether Foss Maritime is
25 a subsidiary of Saltchuk?

1 A Yes.

2 Q And they're signatory to the I -- Foss is signatory to the
3 IBU, correct?

4 A Yes.

5 Q I believe the next meeting you had was on January 5th,
6 2021; is that correct?

7 A That's correct.

8 Q On January 5th, 2021, that was the meeting that Doug
9 Houghton was present. Do you recall any other managers that
10 were present?

11 A Possibly Brian Vartan. I -- all -- all I just know is
12 Doug was there because he spoke --

13 JUDGE SANDRON: You don't -- you don't remember anybody
14 else specifically?

15 THE WITNESS: No, I don't remember anybody else.

16 Q BY MR. HILGENFELD: Do you recall Mr. Houghton informing
17 the group that the time line of the transfer for the work to --
18 from Saltchuk and Glencore was February of 2021?

19 A Can you repeat that, please?

20 Q Do you recall if Mr. Houghton informed the group that the
21 work was going to be transferred away from Westoil in February
22 of 2021?

23 A Yes, that was my understanding.

24 Q And then the next meeting or conversation, I believe, was
25 between you and Doug Houghton by phone on January 13th --

1 A Yeah.

2 Q -- is that correct?

3 A That's correct.

4 Q Did you take notes of the January 13th meeting?

5 A I documented a letter back -- best to my recollection,
6 what was discussed.

7 Q And was anyone else on that phone conversation?

8 A I do not think so.

9 Q I'm going to have you look in your Respondent's Exhibit
10 notebook, 313. That's probably behind you, Mr. Skow.

11 A 18, 39, 11. I don't see a 13.

12 MR. HILGENFELD: May I approach, Your Honor?

13 JUDGE SANDRON: Yes.

14 Does General Counsel have it?

15 MS. YASSERI: Yes, Your Honor.

16 JUDGE SANDRON: I see. Is it one of these books? I
17 (indiscernible) this first one over here. Yeah, it should be
18 this one so --

19 MR. HILGENFELD: It's a good thing we don't have a lot of
20 paper.

21 JUDGE SANDRON: (Indiscernible). Thank you. Okay. I
22 have it now. Thank you. It's in the back there. You're
23 talking about 313?

24 MR. HILGENFELD: Yes, Your Honor.

25 JUDGE SANDRON: Oh, okay.

1 MR. HILGENFELD: Respondent's Exhibit 313.

2 JUDGE SANDRON: Here it is. I see. I thought you said
3 13. I didn't hear the three, so now I know which binder it's
4 in.

5 Q BY MR. HILGENFELD: Mr. Skow, I will submit to you this
6 document was produced by the IBU (indiscernible) responsive to
7 subpoena request. And these are handwritten notes that look
8 like they're 1/13 John Skow at the top and Doug Houghton down
9 below that. Do you recognize this handwriting?

10 A No, I don't.

11 Q Is this your handwriting?

12 A No, it's not.

13 Q Okay. Do you know who else could've taken notes on 1/13?

14 A And this came from us?

15 Q Yes.

16 A Could it be Jay Ubelhart's?

17 JUDGE SANDRON: Well, what do you know? I mean --

18 MR. HILGENFELD: I have no idea.

19 JUDGE SANDRON: -- you know --

20 THE WITNESS: Oh. No, I don't know.

21 Q BY MR. HILGENFELD: All right. Thank you, Mr. Skow. Part
22 of my confusion is I understood your testimony between you and
23 Doug Houghton is that Doug Houghton had requested a one-man
24 barge in your conversation; is that correct?

25 A Yes.



1 Q And he had requested third-man issues as part of the
2 concession, correct?

3 A Yes.

4 Q And I believe you had testified that he needed an answer
5 by the end of the day on January 13th.

6 A Yes.

7 JUDGE SANDRON: Oh, yeah, please, speak up, Mr. Skow, so
8 the court reporter can make sure that you're getting recorded.

9 THE WITNESS: The -- he --

10 Q BY MR. HILGENFELD: Did Mr. Houghton inform you that if he
11 did not have an answer, the investor -- investors would be
12 required to move forward?

13 A Yes.

14 Q Did you understand that Mr. Houghton was asking for a
15 concession related to the third-man requirements?

16 A Yes, I understood that.

17 Q Did you understand that Mr. Houghton was asking for
18 concession related to two members working on a barge at all
19 times?

20 A Could you say that again, please?

21 Q Did you understand that Mr. Houghton received concession
22 to permit a one-man barge?

23 A Yeah, I understood he was asking for a one-man barge, yes.

24 Q Did you understand from Mr. Houghton that he would seek to
25 have the award to Glencore reconsidered if those two

1 concessions were met?

2 A I -- I don't recall that.

3 Q Did you get back to Mr. Houghton on January 13th, 2020?

4 A No, I did not.

5 Q Did you understand Centerline would reconsider Westoil's
6 bid if the Union made concessions on labor costs?

7 A I don't recall on that.

8 Q I'm going to turn your attention to your affidavit on June
9 11th, 2021, Mr. Skow, and it is page 10.

10 A Okay.

11 Q I would like you to read to yourself the second paragraph,
12 starting on lines 9 through 12.

13 A Okay.

14 Q Does that help refresh your recollection as to whether you
15 had the impression that Centerline would reconsider Westoil's
16 bid proposal if the Union was able to make concessions on labor
17 costs?

18 JUDGE SANDRON: Yeah, you need to put the document down
19 first --

20 THE WITNESS: Yeah.

21 JUDGE SANDRON: -- before the question.

22 THE WITNESS: Sorry.

23 Q BY MR. HILGENFELD: Does that help refresh your
24 recollection?

25 A Yes.



1 JUDGE SANDRON: And you recall that now?

2 THE WITNESS: Yes, I do.

3 Q BY MR. HILGENFELD: You also testified yesterday that you
4 did not get back to Mr. Houghton on January 13th because of a
5 health issue, correct?

6 A That is correct.

7 Q Mr. Houghton -- Mr. Skow, I'd like you to review your
8 affidavit, that same paragraph -- the full paragraph you just
9 reviewed.

10 MS. YASSERI: Well, there's no question pending --

11 JUDGE SANDRON: Yeah, I think --

12 MR. HILGENFELD: I'm going to have a question on it
13 that -- it's the absence of information that is getting the
14 question.

15 MS. YASSERI: That's not -- I don't know what Counsel's
16 trying to do here, Your Honor. I -- he's --

17 MR. HILGENFELD: Because --

18 MS. YASSERI: -- trying to impeach a witness without
19 asking a question.

20 Q BY MR. HILGENFELD: Mr. -- Mr. Skow, can you explain why
21 you did not inform the board agent of any health issue on
22 January 13th, 2021?

23 MS. YASSERI: Objection. Relevance. This is improper -- I
24 don't -- improper impeachment. There's also two affidavits
25 here.

1 MR. HILGENFELD: I told him you have to -- we're looking
2 at --

3 MS. YASSERI: Well --

4 MR. HILGENFELD: -- it goes to -- I'm allowed to impeach.
5 With his good testimony yesterday, it's about a health issue.
6 He gave a complete affidavit of 16 pages to the board shortly
7 after this. He does not mention a health issue in the board
8 affidavit.

9 JUDGE SANDRON: Well, you know, he -- did he --

10 MS. YASSERI: It's mentioned in the affidavit from March
11 of 2021.

12 JUDGE SANDRON: Or it's in another affidavit.

13 MS. YASSERI: Yes.

14 JUDGE SANDRON: All right. Well --

15 MS. YASSERI: It was originally mentioned in that
16 affidavit on page 5.

17 MR. HILGENFELD: It is not mentioned there. It's crossed
18 out there.

19 JUDGE SANDRON: Well, is there --

20 MS. YASSERI: Well, it was originally mentioned there.

21 JUDGE SANDRON: What's that?

22 MR. HILGENFELD: But it -- it's --

23 MS. YASSERI: It was originally mentioned there. I don't
24 understand the relevance of this area of inquiry.

25 JUDGE SANDRON: Well, all right.

1 MR. HILGENFELD: But it was -- Your Honor, it was put in
2 there, and then the witness, in signing it, crossed it out. So
3 the actual date that does not have it in there, he crossed out
4 that information, or someone crossed it out.

5 JUDGE SANDRON: Well, is there any mention in the
6 affidavits about any reasons why he didn't get back on that
7 date?

8 MS. YASSERI: There is a reference to that, Your Honor, in
9 his original affidavit, but it was crossed out. But the
10 original version of the affidavit did include a reference to
11 that health issue. Let me just refer to the second affidavit
12 to see if there's any mention as to why he could not respond.
13 This is also related to private medical information, so I'm not
14 really --

15 JUDGE SANDRON: Well, we cannot go into anything relating
16 to the actual medical --

17 MR. HILGENFELD: Yeah, I have no intention to go into it,
18 but the fact is General Counsel brought this up on direct. I'm
19 allowed to cross through it.

20 MS. YASSERI: I don't recall bringing up this topic on
21 direct, Your Honor.

22 MR. HILGENFELD: Well, that answered that.

23 MS. YASSERI: I certainly talked about the meeting that
24 occurred with Doug Houghton on January 13th.

25 MR. HILGENFELD: Mr. Skow testified he was not able to go

1 for a health reason. He just verified that. It's his
2 testimony. He has something in here that he crossed out as not
3 being accurate as far as his statement. He gave another
4 statement that is not mentioned at all, and in fact, if you
5 look at what's crossed out, he says, "My memory's a little
6 fuzzy."

7 JUDGE SANDRON: All right, well --

8 MS. YASSERI: Your Honor, this is also a supplemental
9 affidavit as you know how the board processes work.

10 JUDGE SANDRON: Right.

11 MS. YASSERI: This is in addition to the original
12 affidavit, so the fact that something is not in the
13 supplemental affidavit doesn't mean that it didn't happen.

14 JUDGE SANDRON: All right.

15 MR. HILGENFELD: But --

16 MS. YASSERI: This is a supplemental affidavit.

17 JUDGE SANDRON: All right, well --

18 MR. HILGENFELD: -- it's not in either.

19 MS. YASSERI: Well --

20 JUDGE SANDRON: Well, in any of the afi- -- well, I'm not
21 sure that -- we're not getting into what would be considered
22 impeachment on a collateral matter, which would not justify our
23 time, but is -- just so we know, is there anything in any of
24 the affidavits about, you know, his medical -- a medical
25 reason?

1 MS. YASSERI: Yes, Your Honor. In the original --

2 JUDGE SANDRON: Yeah.

3 MS. YASSERI: -- way that it's presented, it's there.

4 There's a line that's crossed out, but you can still read the
5 text behind that cross-out that references the reason why he --

6 JUDGE SANDRON: Why -- okay.

7 MS. YASSERI: -- could not respond.

8 JUDGE SANDRON: Well, it was crossed out though, right?
9 So presumably it's not part of the affidavit, but I don't know
10 how significant it is. I mean, there's no question he didn't
11 get back on that date, correct?

12 MR. HILGENFELD: It goes to the credibility of the
13 witness --

14 JUDGE SANDRON: All right.

15 MR. HILGENFELD: -- on a number of these issues, that
16 there's an issue here that although may not be great, he says
17 he didn't get back. And he has a reason now that he did not
18 give --

19 JUDGE SANDRON: Okay.

20 MR. HILGENFELD: -- to the board at two different times.

21 MS. YASSERI: It deals -- Your Honor?

22 JUDGE SANDRON: Well, he didn't say in his testimony what
23 it was.

24 MR. HILGENFELD: No, no, no. He said a health issue.

25 MS. YASSERI: It deals with a specific medical diagnosis.

1 JUDGE SANDRON: Health issues but again --

2 THE COURT REPORTER: One at a time, please.

3 JUDGE SANDRON: -- yes. Again, I think it -- it's --
4 un- -- you know, comes under the rule book of impeachment on a
5 collateral matter. I don't think it's going to make it a
6 difference in his overall credibility, so I don't think we need
7 to spend more time on it.

8 MR. HILGENFELD: Thank you.

9 Q BY MR. HILGENFELD: Mr. Skow, I believe you testified you
10 understood that Mr. Houghton was speaking also with Mr.
11 Ubelhart during the same period of time; is that correct?

12 A Yes.

13 Q And did Mr. -- did you and Mr. Ubelhart have conversations
14 relaying what Mr. Houghton had said to Mr. Ubelhart?

15 A I don't recall if it was on that day, but I did talk to
16 him after -- after the 13th.

17 Q And that is Mr. Ubelhart?

18 A Yes.

19 Q And what do you recall Mr. Ubelhart telling you about his
20 conversation with Mr. Houghton?

21 JUDGE SANDRON: Well, I think --

22 MS. YASSERI: That's hearsay.

23 JUDGE SANDRON: -- we're getting into --

24 MS. YASSERI: Excuse me. Objection. Hearsay.

25 MR. HILGENFELD: I'm not offering it for the matter -- the



1 truth of the matter asserted. I'm offering to what the Union
2 understood at that period of time.

3 JUDGE SANDRON: Well, there are two different people, you
4 know, and Mr. Ubelhart did testify. Mr. Ubelhart did testify
5 about his contact, you know, communications with the various, I
6 guess, Respondents, so we already have it in the record. I
7 mean, if you want to -- and you're -- you can certainly cover
8 what the witness' contacts were, but I don't think having him
9 try to piece -- you know, put together what Mr. Ubelhart told
10 him when Mr. Ubelhart was already a witness.

11 MR. HILGENFELD: And I'm not trying to act -- offer this
12 from the truth of the matter asserted. It goes to what the
13 Union knew at this period of time, and I -- I'll rephrase --

14 JUDGE SANDRON: All right.

15 MR. HILGENFELD: -- the question.

16 Q BY MR. HILGENFELD: On or around January 13th, did Mr.
17 Ubelhart inform you that the Union was seeking third man and
18 company discretion?

19 A All I know is he had conversations with Mr. Houghton. I
20 don't know what was discussed.

21 Q Mr. Skow, you testified regarding a meeting that occurred
22 on January 16th, 2021, with Doug Houghton; is that correct?

23 A Yes.

24 Q Was that a Saturday morning?

25 A Yes, it was.

1 Q At that meeting, did you understand Westoil was seeking to
2 eliminate the third-man requirement?

3 A Yes.

4 Q I'm going to turn your attention to GC Exhibit 41. And
5 this is your supposal? It's a loose page you would have
6 received yesterday.

7 A Yes. I know which one that -- document that is. Okay.

8 Q The top line here you have a paren union agrees; do you
9 see that?

10 A Yes.

11 Q When submitting this pro- -- supposal, did you understand
12 that it was the uni- -- the company's desire to have to have
13 the third man on the barge?

14 A Could you repeat that, please?

15 Q In submitting this supposal, did you understand that the
16 company had presented a proposal with a third man on the barge?

17 A I don't recall that.

18 Q Then what are you agreeing to?

19 A We're agreeing to -- that the company's discretion or
20 whatever, they felt like putting the third man on. We're going
21 to agree to that.

22 Q And who put that idea forward first?

23 A This came from us.

24 Q But the idea of a third man on a barge at company
25 discretion. That came from the company, correct?

1 MS. YASSERI: Objection, asked and answered.

2 A No.

3 MR. HILGENFELD: It's been asked. It hasn't been
4 answered.

5 MS. DERRY: I would also object, asked and answered. John
6 testified at length about what was meant by that proposal
7 yesterday.

8 JUDGE SANDRON: Well, of course, you know, cross-
9 examination is not -- by a different counsel is not asked and
10 answered by the same --

11 MS. DERRY: Well --

12 JUDGE SANDRON: -- counsel but --

13 MS. DERRY: There was extensive testimony yesterday about
14 what was meant by why it says use company discretion.

15 JUDGE SANDRON: All right. But again, asked and answered
16 only applies to the counsellor who's asking the questions. But
17 I think it was covered.

18 Now just so we -- it's probably clear but when you said
19 direction, was that discretion that --

20 THE WITNESS: That's discretion.

21 JUDGE SANDRON: All right. So that was just --

22 THE WITNESS: We're giving the company discretion --

23 JUDGE SANDRON: All right.

24 THE WITNESS: -- when they can use a third man.

25 Q BY MR. HILGENFELD: My question, Mr. Skow, you put parens,

1 union agrees. I'm trying to understand -- that originally
2 came -- the idea of third man on the barge came from the
3 company, correct?

4 JUDGE SANDRON: Well, I'll tell you what --

5 MS. YASSERI: Objection, asked and answered.

6 JUDGE SANDRON: Yeah. I'll tell you what, just so we put
7 it to rest, to what -- and I think he's answered it already.
8 But just so we don't spend more time on this unnecessarily, to
9 what did the Union agree?

10 THE WITNESS: We -- we agreed with the company that -- the
11 company's stance on giving them the discretion whenever they
12 use the third man on the barge.

13 JUDGE SANDRON: I think that answers it.

14 MR. HILGENFELD: That does answer my question, Your Honor.
15 Thank you.

16 Q BY MR. HILGENFELD: Then you have barge manning. And I
17 believe you've testified the company had sought to have one
18 person on the barge at certain periods of time?

19 JUDGE SANDRON: Do you recall? Is that -- is that your
20 testimony?

21 A My understanding is that they wanted a tankerman -- just a
22 tankerman on the barge at all times.

23 Q BY MR. HILGENFELD: And was this a counterproposal to the
24 company's proposal related to what the company wanted?

25 MS. DERRY: Objection, misstates facts in evidence.

1 MR. HILGENFELD: It's a question. He just said that this
2 was what the company wanted. I'm asking if this was a
3 counterproposal.

4 MS. DERRY: But your question presumes that there was a
5 specific proposal that the company made. You can probably
6 rephrase.

7 MR. HILGENFELD: I don't need to rephrase.

8 JUDGE SANDRON: Well, I don't know. We're not necessarily
9 talking about written -- formal written proposals. I guess
10 maybe an -- maybe an idea advanced by the company. But I think
11 you can answer as best as you can.

12 THE WITNESS: We wrote up the supposal and gave it back to
13 the company based on what they were telling us that they were
14 interested in.

15 JUDGE SANDRON: All right. Thank you.

16 Q BY MR. HILGENFELD: The tankerman discretion, that was new
17 though, correct?

18 MS. YASSERI: Objection, vague as to --

19 JUDGE SANDRON: Well -- well, I think the document in a
20 way kind of, you know, speaks for itself. If the Union was
21 putting in a new provision then obviously they were adding
22 something.

23 Q BY MR. HILGENFELD: Mr. Skow, regarding the one tankerman,
24 did you understand -- or one tankerman on a barge, did you
25 understand that the company had put forth the idea that it

1 would be at the company discretion?

2 A I don't recall.

3 Q The tankerman is in the bargaining unit, correct?

4 A Yes.

5 Q Five percent on health and welfare. Health and welfare,
6 is that referring to the IBU health and welfare plan?

7 A Yes.

8 Q And in fact, Mr. Vartan in his December 1st, 2020 email to
9 you had asked if you would be considering the company medical
10 plan, correct?

11 A Yes.

12 Q And this supposal sought to obtain all the Chevron barges
13 as well, correct?

14 A That's correct.

15 Q And the IBU has never performed work on Westoil for any
16 Chevron barges, correct?

17 A That's correct.

18 JUDGE SANDRON: And I think you probably answered this
19 yesterday but just to make sure, when you talk about a 2.5
20 percent -- or a wage increase, that was not based on anything
21 that the company had proposed. That was something you were
22 proposing as part of your supposal and addressing all these
23 issues?

24 THE WITNESS: Yes, Your Honor. That's what it was.

25 Q BY MR. HILGENFELD: And this would extend the terms of the



1 entire labor agreement beyond the current expiration terms at
2 that time, correct?

3 A Yes.

4 Q Did I understand your testimony, Mr. Skow, that it wasn't
5 until February 17th, 2021 when you received a response to a
6 request for information for Mr. Hathaway that you understood
7 that the Glencore decision would not be undone?

8 MS. YASSERI: Objection, misstates the witness's
9 testimony.

10 MR. HILGENFELD: I'm asking the witness if that is his
11 testimony.

12 JUDGE SANDRON: Was that -- you're saying that wasn't
13 his --

14 MS. YASSERI: That's correct, Your Honor.

15 JUDGE SANDRON: All right. Well maybe --

16 MR. HILGENFELD: I --

17 Q BY MR. HILGENFELD: What is your testimony about when you
18 found out the Glencore work would not be -- the process would
19 not be undone?

20 A That -- I believe it was in the letter of the January
21 20th.

22 Q Okay.

23 A I --

24 Q And that's where I'll turn your attention to GC 43.

25 A 43. Okay.

1 MR. HILGENFELD: Just note for the record that under the
2 Glencore section of page 5 of this, the document states from
3 Mr. Vartan, I have been informed that decision cannot be undone
4 at this point. Noting that for the record.

5 Q BY MR. HILGENFELD: Mr. --

6 JUDGE SANDRON: That's on the last page?

7 MR. HILGENFELD: Page 5.

8 JUDGE SANDRON: Where --

9 MR. HILGENFELD: It's the last sentence at the top part of
10 that paragraph regarding the Glencore warrant. Westoil
11 repeatedly attempted for over two months to discuss methods --

12 JUDGE SANDRON: All right.

13 MR. HILGENFELD: -- to maintain the Glencore work. IBU
14 refused to engage in those conversations --

15 JUDGE SANDRON: All right.

16 MR. HILGENFELD: -- waiting until after CLL made its
17 decision. I have been informed that decision cannot be undone
18 at this point.

19 JUDGE SANDRON: All right.

20 MR. HILGENFELD: Noting that for the record.

21 JUDGE SANDRON: Okay, that's noted.

22 Q BY MR. HILGENFELD: Mr. Skow, from the time that you
23 received this to the time that Glencore work was being
24 performed by Leo Marine Services, did anyone at Westoil give
25 you any indication different from what is stated right there,

1 the decision cannot be undone?

2 MS. YASSERI: Objection, vague.

3 JUDGE SANDRON: Maybe that's a little bit. Maybe you want
4 to rephrase that.

5 MR. HILGENFELD: Certainly.

6 Q BY MR. HILGENFELD: Did you speak with Mr. Vartan -- I'll
7 withdraw for right now. Mr. Skow, I'm going to turn your
8 attention to Respondent's 317 which is in that book, 3-1-7. It
9 should be one of the bigger ones you just looked at.

10 A Yeah.

11 JUDGE SANDRON: I think that's the last one in the book,
12 3-1-7?

13 MR. HILGENFELD: I believe it is, Your Honor.

14 Do we all have 317?

15 JUDGE SANDRON: Yes.

16 MR. HILGENFELD: Okay.

17 Q BY MR. HILGENFELD: Mr. Skow, this was produced via
18 subpoena from the IBU. And this is -- it appears to be an
19 email from you to Jay Ubelhart on January 26th, 2021; is that
20 correct?

21 A Yes.

22 JUDGE SANDRON: Do you recognize this?

23 THE WITNESS: Yes.

24 MR. HILGENFELD: We'd move to offer Respondent's Exhibit
25 317.

1 JUDGE SANDRON: And just for the record, there's certain
2 portions redacted.

3 Any objection?

4 MS. YASSERI: Can we go off the record for a moment?

5 JUDGE SANDRON: Yes. Off the record.

6 (Off the record at 2:34 p.m.)

7 JUDGE SANDRON: Back on the record. Any objection?

8 MS. YASSERI: Not from the general counsel.

9 JUDGE SANDRON: And --

10 MS. DERRY: No -- no objection from IBU. I would just
11 like to note on the record that this document was produced by
12 the IBU to Centerline in a different matter where we are third-
13 party witnesses and that IBU had previously represented to the
14 employer that that can use the documents produced in that case
15 in this matter.

16 JUDGE SANDRON: All right.

17 MS. DERRY: And so all of the redactions on this are all
18 due to issues in the other case.

19 JUDGE SANDRON: All right. That's noted on the record.

20 MR. HILGENFELD: I'm sorry, Your Honor, was that admitted?

21 JUDGE SANDRON: What's that?

22 MR. HILGENFELD: Was it admitted?

23 JUDGE SANDRON: It is admitted. Okay. Thank you. 317 is
24 admitted without objection.

25 **(Respondent Exhibit Number 317 Received into Evidence)**

1 Q BY MR. HILGENFELD: Mr. Skow, you filed a grievance
2 related to the work from Glencore, correct?

3 A That's correct.

4 Q And if you look at I believe Exhibits 46 and 49, you've
5 identified Section 5.2c as the basis for the grievance; is that
6 correct?

7 A Yes.

8 Q Did the Union provide any other sections or basis that
9 you're aware of other than what's stated in your grievance
10 letter?

11 JUDGE SANDRON: Well, I don't know. Can the Union go
12 beyond what's in the grievance? I mean, if they cite a
13 section.

14 MR. HILGENFELD: Well, the company likes to say they can't
15 but I've heard the Union often times say they can, so --

16 MS. DERRY: Well, because it is, yes.

17 JUDGE SANDRON: Well, I g- -- I suppose you could ask him
18 if -- well, if at the grievance meeting they raised any other
19 sections.

20 Q BY MR. HILGENFELD: Mr. Skow, do you recall raising any
21 other sections related to this grievance?

22 A No.

23 Q And I'm going to turn your attention to Respondent's
24 Exhibit 125.

25 JUDGE SANDRON: Which book is that? Do you know which

1 book is that?

2 MS. YASSERI: 125. 125.

3 JUDGE SANDRON: Because some of them are out of order.

4 THE WITNESS: 125.

5 JUDGE SANDRON: There's the other book.

6 THE COURT REPORTER: Here you go, Judge. It's 125.

7 JUDGE SANDRON: Here it is. Thank you. There we go.

8 Okay. Thank you very much. Okay, 125.

9 Q BY MR. HILGENFELD: Are you there, Mr. Skow?

10 A Yes.

11 Q Okay. This is a letter from myself to Dmitri Iglitzin on
12 January 18th, 2022. Do you see that?

13 A Yes.

14 Q And Mr. Iglitzin represents the IBU; is that correct?

15 A Yes.

16 Q Mr. Iglitzin was handling the grievance number 21-04; is
17 that correct?

18 A Yes.

19 Q And have you seen this letter before?

20 A I don't recall.

21 Q I'm going to turn your attention to Respondent's Exhibit
22 126. This is a letter dated February 1st, 2022, also from
23 myself to Mr. Iglitzin regarding grievance number 21-04. Do
24 you see that? Is that a yes, Mr. Skow?

25 A What was the question?

1 JUDGE SANDRON: Well, I don't know if we need to have the
2 witness testify about these letters if you wish to offer them.
3 I mean, unless there's an objection on relevance.

4 MS. YASSERI: There is.

5 MS. DERRY: I believe they're already in the record, Your
6 Honor.

7 JUDGE SANDRON: Are they in the record?

8 MS. YASSERI: No, they're not. Actually, we do object on
9 relevance, Your Honor. I don't really understand the relevance
10 of these letters. The respondent's number provided the region
11 with Collyer assurances during the investigation, it's clear
12 that they were not willing to waive their timeliness argument.
13 I don't really understand the relevance of these letters from
14 early February of 2022 regarding the status of any potential
15 arbitration hearing regarding timeliness and the merits.

16 MR. HILGENFELD: Well, it is relevant. They've asked --
17 they've had -- they've put into grievance 21 04 all the way
18 through. The fact is we selected an arbitrator to go forward
19 to have an arbitrator decide the timeliness issue and any other
20 meritorious issue the arbitrary decided. And they're relevant
21 on that point.

22 Counsel has elected to put the grievances forward. We are
23 certainly permitted to complete the record as to the current
24 standing of the grievances. The Union refused to go forward
25 prosecuting those grievances.

1 MS. YASSERI: That's not relevant to the issues at the
2 heart of this case, Your Honor. It's clear that the
3 respondents never provided the region with Collyer assurances
4 regarding the timeliness argument. So I don't really
5 understand why there has to be much more.

6 JUDGE SANDRON: Ms. Derry, do you have --

7 MS. DERRY: Well, I agree with the General Counsel. I
8 mean, the grievances were filed and then Centerline stated they
9 were untimely and so we brought a Board charge and here we are.
10 It's on a Board charge. They never waived their timeliness
11 objections. We're not here on a grievance, we're here on a
12 Board charge. We're alleging a violation of federal law, not a
13 violation of the contract.

14 MR. HILGENFELD: It goes to the standing of the grievance
15 21 04. They've put it into the record. They've put it into
16 evidence.

17 JUDGE SANDRON: Yes.

18 MR. HILGENFELD: They've put it into dispute.

19 JUDGE SANDRON: Well, but I think that the evidence on the
20 record is that the company took the position that the grievance
21 was untimely and that was basically the end of it.

22 MR. HILGENFELD: But it was not. That's what these
23 letters say. We were submitting this to an arbitrator for an
24 arbitrator to determine both the timeliness and the merits of
25 the issue. The arbitrator was going to determine both of them.

1 MS. YASSERI: That's -- well, that is -- that is not
2 relevant to the General Counsel's case, Your Honor.

3 JUDGE SANDRON: Well --

4 MR. HILGENFELD: But it's relevant to a defense. When
5 they put it forward, we're -- we are provided the opportunity
6 to defend ourselves regarding evidence they've put forward.

7 MS. DERRY: All right, then the company's position that it
8 was -- that it was untimely. So now we're here on a Board
9 case, not on a grievance.

10 MR. HILGENFELD: But --

11 MS. DERRY: Your position the entire time has been --
12 Centerline's position the entire time has been that the
13 grievance was untimely.

14 MR. HILGENFELD: And but we agreed to arbitrate that issue
15 and arbitrate the merits at the same time.

16 JUDGE SANDRON: Let me take a look at this. All right,
17 well, I suppose in the interest of having a complete record, I
18 mean, we did have testimony about the grievances and where they
19 were and what happened to them. So I think these documents
20 complete the record. I don't know if they add anything as far
21 as --

22 THE COURT REPORTER: Can you repeat that? I lost audio.

23 JUDGE SANDRON: That's okay. No, I said I don't -- I
24 think we already have on the record what the witness understood
25 about the arg- -- employer's arguments about timeliness and

1 that the grievances never actually went to arbitration. But
2 you know, for purposes of a complete record, I don't see any
3 prejudice to the IBE- -- IBU or the General Counsel and it's
4 completing the record.

5 I don't know if, you know, it's going to make any
6 difference as far as the ultimate disposition of issues but you
7 wish to offer these documents?

8 MR. HILGENFELD: We do, Your Honor.

9 JUDGE SANDRON: And General Counsel and the IBU have
10 objected. But again, relevance is something. If necessary,
11 that can be determined later. But again, for -- since the
12 grievances were brought up on direct, I'll allow these to
13 complete the record so they're admitted.

14 **(Respondent Exhibit Numbers 125 and 126 Received into Evidence)**

15 Q BY MR. HILGENFELD: Mr. Skow, in November of 2020 as it
16 relates to L.A./Long Beach Harbor -- so all of my questions
17 relate to November of 2020, L.A./Long Beach Harbor on this --
18 do you understand that?

19 A Yes.

20 Q Did Westoil claim bunkering work? Did IBU claim bunkering
21 work?

22 A I think we always have.

23 Q Did the IBU claim lightering?

24 A I can say we've done lightering jobs in the past.

25 Q Did the IBU claim cross-harbor transfers --

1 MS. YASSERI: I'm going to --

2 Q BY MR. HILGENFELD: -- or terminal transfers?

3 MS. YASSERI: Objection, vague as to claim.

4 JUDGE SANDRON: Maybe you --

5 MR. HILGENFELD: I don't think it's vague.

6 JUDGE SANDRON: Maybe you want to just --

7 MR. HILGENFELD: There's a jurisdictional claim for work
8 and it's a known.

9 JUDGE SANDRON: What's that?

10 MR. HILGENFELD: There's a jurisdictional claim of work.
11 It's -- we got to get into Mr. Skow what a jurisdictional claim
12 of work is but I think it's undisputed.

13 JUDGE SANDRON: Okay. Can you just keep your voice up a
14 little bit?

15 MR. HILGENFELD: Certainly.

16 JUDGE SANDRON: I think maybe you can rephrase it. But
17 you know, maybe just you want to change it to requested or --

18 MR. HILGENFELD: I'll go a different direction.

19 JUDGE SANDRON: Yeah, maybe.

20 Q BY MR. HILGENFELD: On -- I'm going to turn your attention
21 to Respondent's 121 that's been admitted into the record. It
22 is the 2015 arbitration award.

23 A Okay.

24 Q Now I'm going to turn to page 4.

25 A Okay. Okay.

1 Q And in this, Arbitrator Francis (phonetic) has identified
2 four categories of work performed by Westoil. She's identified
3 bunkering, lightering, ship assist, and cross-harbor transfers.
4 Do you see that?

5 A Y- --

6 MS. DERRY: Objection, relevance.

7 JUDGE SANDRON: Yes.

8 MS. YASSERI: Objection, the document speaks for itself.

9 JUDGE SANDRON: Right.

10 MR. HILGENFELD: It does but it goes to -- the next
11 question is does Mr. Skow agree that is the work that they
12 claim?

13 MS. YASSERI: Objection.

14 MR. HILGENFELD: And is there --

15 MS. YASSERI: Document speaks for itself.

16 MS. DERRY: And the --

17 MR. HILGENFELD: But this doesn't speak to what --

18 JUDGE SANDRON: Wait, wait.

19 MR. HILGENFELD: This doesn't speak to what the IBU claims
20 is their work. She's made an assertion about what she found.
21 That does not mean that Mr. Skow asserts the same thing.

22 JUDGE SANDRON: Well, you're asking him if the Union
23 claimed those types of work?

24 MR. HILGENFELD: Correct.

25 JUDGE SANDRON: Well, just -- you can just ask him is --

1 well, the claim is -- you know, we're getting into maybe a term
2 of art in the sense claimed and also timeframe.

3 MR. HILGENFELD: This was --

4 JUDGE SANDRON: I --

5 Q BY MR. HILGENFELD: Mr. Skow --

6 MR. HILGENFELD: I'll try to reframe the question.

7 JUDGE SANDRON: I'm just pointing out we have a multitude
8 of documents, you know, between the parties, internal. We have
9 hundreds of documents and, you know, I think a lot of -- some
10 of these things may be covered in certain documents and we have
11 to go through all of them. But I mean, if you want to ask a
12 couple of questions on that but I don't know if we want to, you
13 know, belabor it. We've had his testimony on direct and you've
14 asked him some questions. I'll allow a little bit of latitude.
15 I don't think we want to get too bogged down.

16 Q BY MR. HILGENFELD: Mr. Skow, under the current labor
17 agreement, to your understanding, does the IBU assert the
18 bunkering work performed by bargaining unit members within the
19 scope of that agreement?

20 A My understanding is if we have a con- -- if we have a
21 customer that Westoil has a contract with, that is our work.

22 Q Would that include bunkering work?

23 A Yes.

24 Q Would that include lightering?

25 A Yes.

1 Q Would that include terminal transfers?

2 A Yes.

3 Q In November of 2022, would that include ship assist?

4 A Yes.

5 Q Today, does that include ship assist?

6 A No, because we don't do ship assist.

7 Q Is there any other work not within that group that you
8 would include?

9 A I would have to go back to whatever we have a contract
10 with -- Westoil has a contract with, whatever that work is,
11 that's the work we do.

12 Q Is it limited to who Westoil has a contract with?

13 A That's my understanding.

14 Q And if Westoil doesn't have a contract with it, IBU does
15 not assert it, correct?

16 A Yes.

17 Q I'm going to turn your attention to Respondent 133.

18 MR. HILGENFELD: Do you have it, Your Honor?

19 JUDGE SANDRON: Yes.

20 MR. HILGENFELD: Okay.

21 Q BY MR. HILGENFELD: Mr. Skow, Respondent's 133 is the
22 opening proposal submitted in the labor negotiations in
23 2017/2018 between IBU and Westoil on November 6th, 2017; is
24 that correct?

25 A That's correct.



1 Q And at this meeting, who was present for the event?

2 A I know I was and Marina -- National President Marina
3 Secchitano was. I don't recall who the bargaining members were
4 in that case.

5 Q If Ms. Secchitano was elected in 2- -- in December of 2017
6 to be the president, would she have been at that meeting if she
7 was not the president of the IBU?

8 JUDGE SANDRON: Well, you know, I don't think he can
9 answer that. I mean, just the president may or may not have
10 been there.

11 Q BY MR. HILGENFELD: Do you know if there would have been
12 an election December of 2017, Mr. Skow?

13 A Y- --

14 JUDGE SANDRON: Well, I don't -- do you recall? But
15 even --

16 THE WITNESS: I don't recall right offhand, sir.

17 JUDGE SANDRON: All right.

18 THE WITNESS: I --

19 JUDGE SANDRON: Well I think even if there -- the pres- --
20 there was a president doesn't mean the president attended.

21 MR. HILGENFELD: I believe -- and I believe Mr. Ubelhart
22 has testified on this issue.

23 JUDGE SANDRON: All right. And he already testified he
24 was there?

25 MR. HILGENFELD: I believe Mr. Ubelhart was not there --



1 JUDGE SANDRON: Not there.

2 MR. HILGENFELD: -- but neither was Ms. Secchitano.

3 JUDGE SANDRON: All right, well.

4 Q BY MR. HILGENFELD: Were there periods of time when Ms.
5 Secchitano was not involved in bargaining during the labor
6 negotiations with Westoil, Mr. Skow?

7 A It's possible.

8 Q And if she was not there, who would have been the lead
9 negotiator for the Union?

10 A It would have been me.

11 Q Do you recall who was present for the company during labor
12 negotiations at that time?

13 A Mr. Hilgenfeld.

14 Q Do you recall if Mr. Houghton was present?

15 A Yes.

16 Q Do you recall if Andre Nault was present?

17 A I do not recall.

18 JUDGE SANDRON: Do we have that spelling on record?

19 MR. HILGENFELD: A-N-D-R-E a -- with a thing, N-A-U-L-T.

20 JUDGE SANDRON: Thank you.

21 Q BY MR. HILGENFELD: Do you recall if Mr. Vartan was
22 present?

23 A I do not recall.

24 Q I'm going to turn your attention to page 17.

25 JUDGE SANDRON: Of which document?

1 MR. HILGENFELD: Same document, Your Honor, Respondent's
2 133.

3 JUDGE SANDRON: 13- --

4 MR. HILGENFELD: I guess go -- I apologize.

5 Q BY MR. HILGENFELD: On the front page it says John's copy.
6 Who's John?

7 A That's me.

8 JUDGE SANDRON: Well, this -- the copy that I have only
9 has two pages.

10 MR. HILGENFELD: Okay. I apologize. I have the full
11 version. We just put the -- so I apologize.

12 Q BY MR. HILGENFELD: So the front page -- the front page on
13 this, Mr. Skow --

14 MR. HILGENFELD: And it is a two-page document, Your
15 Honor.

16 Q BY MR. HILGENFELD: Is this your handwriting?

17 A Yes, it is.

18 Q And it says proposed to company 1:17. Is that the time?

19 A Yes, that's the time.

20 Q I'm assuming p.m.?

21 A Yes.

22 Q 11/6/2017. Is that the date the proposal was given?

23 A Yes.

24 Q Do you know where labor negotiations occurred on this
25 date?

1 A I don't recall.

2 Q Do you recall where the parties negotiated the contract in
3 general?

4 A A lot of times -- most of the time it was at the Westoil
5 office. We traded back and forth. That's all I recall.

6 JUDGE SANDRON: And where was the Westoil office at the
7 time?

8 THE WITNESS: At 1610 Barracuda Street. It's nearby.

9 Q BY MR. HILGENFELD: LA 301?

10 A LA 301.

11 Q On page 2, is this the work preservation clause that was
12 presented -- that you presented to the company?

13 A Yes.

14 Q And is this your handwriting as well?

15 A Yes.

16 Q And when it says 451 no, comma, not going to agree, is
17 that the company response?

18 A Yes.

19 Q When you presen- -- and the top response about date
20 proposed, is that the date and time this was proposed?

21 A Yes.

22 Q When you pro- -- made this proposal to the company, do you
23 recall -- what do you recall saying?

24 MS. YASSERI: Objection, Your Honor, parol evidence. I
25 understand your prior ruling but just for clarity of the

1 record, we'd like to have a standing objection regarding parol
2 evidence.

3 JUDGE SANDRON: Well, I'm not sure that we're going to be
4 opening up a lot of new areas here as far as maybe resulting in
5 unduly prolonging the trial or if we're going to start getting
6 into these matters in detail.

7 MR. HILGENFELD: This is not a lengthy question, more --
8 and at least in our response, we don't believe it's a lengthy
9 piece --

10 JUDGE SANDRON: What's that?

11 MR. HILGENFELD: We don't believe it's lengthy, Your
12 Honor. We do believe it's important.

13 JUDGE SANDRON: Well, again, for the same reason I allowed
14 it before, I'll allow the testimony subject to the -- not --
15 actually not excised on the record but not considered if the
16 General Counsel prevails. So go ahead.

17 MS. DERRY: I would like to renew my outside the scope of
18 direct objection.

19 JUDGE SANDRON: Yes.

20 MS. DERRY: But I think perhaps that's maybe just a
21 procedural question for Your Honor because I understand that
22 Mr. Hilgenfeld also was calling John as a direct witness. I'd
23 just like clarity on whether this is a kind of a combination of
24 both his direct and the cross or kind of what the procedure
25 here is.

1 JUDGE SANDRON: Okay.

2 Well, were you planning to call Mr. Skow?

3 MR. HILGENFELD: We have a subpoena and we are -- we were
4 going to call him.

5 JUDGE SANDRON: Well --

6 MR. HILGENFELD: We had an agreement with Mr. Iglitzin --

7 JUDGE SANDRON: All right, well --

8 MR. HILGENFELD: -- that we would try to get Mr. Skow on
9 and off his --

10 JUDGE SANDRON: All right, well I don't know then if
11 you're going to cover these subjects now. You know, as you
12 know, you only get one bite at the apple so to speak. So if
13 you're going to cover these areas with him now, that's fine.
14 But you won't be allowed to -- under 611(c), cover the same
15 grounds.

16 MR. HILGENFELD: We do not intend to recall Mr. Skow. We
17 intend to get it all done now so he can go on with his life is
18 our intent.

19 JUDGE SANDRON: I see. Okay. Well, I think --

20 MS. DERRY: And with that understanding, I will stop
21 thinking outside the scope of direct --

22 JUDGE SANDRON: Okay.

23 MS. DERRY: -- indefinitely. Thank you.

24 JUDGE SANDRON: Okay. We have that clarified.

25 Go ahead.

1 Q BY MR. HILGENFELD: Mr. Skow, do you -- what do you recall
2 saying when you made this presentation to the company regarding
3 the work preservation clause.

4 A What I said -- what I -- what did I say to the company?
5 Is that what you're asking me?

6 Q Correct.

7 A I really don't recall my exact words because it was back
8 quite a while ago. What I -- what I can say is that I felt
9 that we really didn't need this proposal. But my members
10 wanted it, so I passed it across the table.

11 Q Do you recall the company saying --

12 JUDGE SANDRON: Go over anything else that you --

13 THE WITNESS: I can say one thing. I let Brian Janson
14 because this was his -- this is what the member wanted.

15 JUDGE SANDRON: That was a member?

16 THE WITNESS: Yeah.

17 JUDGE SANDRON: Can you --

18 THE WITNESS: He was a member of the bargaining committee
19 but --

20 JUDGE SANDRON: I see.

21 THE WITNESS: -- I didn't feel we needed it because I felt
22 we were covered under the collective bargaining agreement.
23 So -- but I have this latitude where I let my members go ahead
24 and pass things across the table.

25 Did I think this was going to -- the company was going to

1 agree to this? No. I even told the members that.

2 JUDGE SANDRON: Do we have a spelling of that member? I'm
3 not sure. Do you --

4 MR. HILGENFELD: Janson.

5 THE WITNESS: Brian Janson. J-A-N-S-O-N.

6 JUDGE SANDRON: And the first name?

7 THE WITNESS: Brian. Brian.

8 JUDGE SANDRON: Do you want to spell it? We don't -- we
9 can't assume spelling.

10 THE WITNESS: I don't want to m- --

11 JUDGE SANDRON: If you know.

12 THE WITNESS: It's B-R-I-A-N.

13 JUDGE SANDRON: Right. And sometimes it can be with a Y
14 so --

15 THE WITNESS: Yes.

16 JUDGE SANDRON: -- we just want to make sure.

17 THE WITNESS: Okay.

18 JUDGE SANDRON: Thank you.

19 THE WITNESS: Sometimes I spell it brain. I don't -- I'm
20 a bad speller.

21 Q BY MR. HILGENFELD: Do you recall saying presenting this
22 proposal that this was being presented because OTB was
23 considered as much of the competition as anyone else?

24 A I don't recall.

25 Q Do you recall any of your members saying that?



1 A No, I don't recall.

2 Q Mr. Skow, I'm going to turn your attention to GC48. It
3 should be in the looseleaf pages that you would have gotten
4 yesterday.

5 A Yes.

6 JUDGE SANDRON: Do you have it?

7 THE WITNESS: Yes, I do. Yes, sir.

8 Q BY MR. HILGENFELD: Okay. Mr. Skow, do you know if Chad
9 Milikan is an engineer?

10 A Yes.

11 Q Isn't it true that the engineers primarily work on the
12 tugboats?

13 A Yes.

14 Q Isn't it true that as -- did you have an understanding
15 that as part of the asset sale, the tugboats that Westoil had
16 been using were sent to Saltchuk?

17 A Yes.

18 Q And the -- isn't it true that ship assist is primarily
19 performed by the tugboats?

20 A Yes.

21 Q And the asset sale sold the ship assist warrant, correct?

22 A That's correct.

23 Q So Mr. Milikan's advanced layoff notice the -- I guess I
24 should reframe that. The ship assist work stopped on or about
25 March 1st, 2021 being performed by Millennium Maritime, Inc.,

1 correct?

2 A Can you repeat that again please?

3 Q Were you awa- -- did you have an understanding that the
4 ship assist had been sold to Saltchuk starting on or about
5 March 1st, 2021?

6 A Yes.

7 Q The next page --

8 JUDGE SANDRON: Wait. He just said the record -- Milikan
9 is M-I-L-I-K-A-N.

10 Q BY MR. HILGENFELD: Clay Holick on the second page. Mr.
11 Holick. Is Mr. Holick an engineer?

12 A Yes, he is.

13 JUDGE SANDRON: All right. Do we have a spelling of these
14 individuals on the record? I'm not sure we do.

15 MR. HILGENFELD: I believe we do, Your Honor.

16 JUDGE SANDRON: Do -- we do? We have them? All right,
17 then we don't need to have them spelled again.

18 Go ahead.

19 Q BY MR. HILGENFELD: On the fourth page, Mr. Dain Schmidt.
20 Is Mr. Dain Schmidt an engineer?

21 A Yes.

22 Q On the fifth page, are you aware of whether Mr. Costello
23 sometimes works as an engineer?

24 A My understanding his main primary classification was a
25 tankerman.

1 Q Okay. On the eighth page, Mr. Buzard, do you have an
2 understanding of in February of 2021 if Mr. Buzard was an
3 engineer?

4 A Was that -- do you mean Nick Buzard?

5 Q Yeah, Nick Buzard, not his father.

6 A Yes, he was an engineer.

7 Q And on page 9, do you know if Nolan Padilla is an
8 engineer?

9 A Yes.

10 Q Mr. Vartan, you had testified --

11 MS. YASSERI: Mr. Skow.

12 MR. HILGENFELD: Good Lord. Thank you.

13 Q BY MR. HILGENFELD: Mr. Skow, you had testified regarding
14 Tim Wilder (phonetic) yesterday. Do you recall that?

15 A Yes, I do.

16 Q And I believe Mr. Wilder was one of the individuals who
17 had been terminated for failing to work sufficient hours over a
18 period of time; is that correct?

19 A That's correct.

20 Q Did you have an understanding that Mr. Wilder had not
21 accepted a call or a callout for 15 months before he was
22 terminated?

23 A Yes, I'm aware.

24 Q And that he was called to come to work and he had elected
25 not to come to work, correct?

1 A I was not aware of that.

2 MR. HILGENFELD: May I approach, Your Honor?

3 JUDGE SANDRON: Yes. I guess I need to wait.

4 MR. HILGENFELD: I apologize. Can we mark this as
5 Respondent's 320?

6 JUDGE SANDRON: This will be 320.

7 **(Respondent Exhibit Number 320 Marked for Identification)**

8 MR. HILGENFELD: Please.

9 Q BY MR. HILGENFELD: Mr. Skow, you testified yesterday that
10 you had received a letter on or about December 1st, 2022 about
11 the closure of Westoil and entering into effects bargaining; do
12 I have that correct?

13 A Yes.

14 Q Is this the letter that you're referencing in Respondent's
15 320?

16 A Yes.

17 Q And this is a letter from myself to you dated December
18 1st, 2020, correct?

19 A That's correct.

20 Q Mr. Skow, I'd like to turn your attention to the last
21 sentence. "If the IBU would like to bargain over this decision
22 and its effects, please contact me by December 15th, 2022." Do
23 you note that sentence?

24 JUDGE SANDRON: If what?

25 MR. HILGENFELD: I'm just asking if he sees that sentence.



1 JUDGE SANDRON: Okay.

2 A Yes.

3 Q BY MR. HILGENFELD: Okay. Mr. Skow, did you have an
4 understanding of whether the company was asking you whether you
5 wanted to bargain over the decision of the closure?

6 JUDGE SANDRON: I think it speaks for itself.

7 MR. HILGENFELD: Okay.

8 Q BY MR. HILGENFELD: Aside from this letter, do you have
9 any other communications from the company regarding the intent
10 to close Westoil?

11 A What -- ask that question, please.

12 Q Did you have -- I'm just trying to make sure. Was there
13 any other letter that you received from Westoil or is this the
14 sole letter regarding the intent to --

15 A This is the sole letter, yes.

16 Q And Mr. Skow, when the parties met to bargain over this
17 issue in November -- or December of 2022, did the Union request
18 to bargain over the decision to close Westoil at that time?

19 A We engaged in discussions, yes.

20 Q Did the Union present a proposal to not close Westoil at
21 that time?

22 A Yes, we did.

23 Q And did the company tell the Union they'd be willing to
24 discuss whether or not to close Westoil at that time?

25 A I believe we're still trying to make that determination.

1 Q I'm not saying whether a decision was made. I'm saying
2 was the company willing to discuss and talk with the Union
3 about the decision to close during negotiations?

4 A Yes.

5 MR. HILGENFELD: Just one moment, Your Honor, if I can go
6 through my notes.

7 JUDGE SANDRON: Go ahead. Do you want to go off the
8 record or do you think we can stay on the record?

9 MR. HILGENFELD: Probably if we can go off the record
10 maybe for two minutes.

11 JUDGE SANDRON: All right. Off the record.

12 (Off the record at 3:15 p.m.)

13 JUDGE SANDRON: Back on the record.

14 I understand you have no further questions, Mr.
15 Hilgenfeld?

16 MR. HILGENFELD: That is correct, Your Honor.

17 JUDGE SANDRON: Did you wish to offer R-320?

18 MR. HILGENFELD: I do, Your Honor.

19 JUDGE SANDRON: Any objection?

20 MS. YASSERI: No, Your Honor.

21 JUDGE SANDRON: The document is received.

22 **(Respondent Exhibit Number 320 Received into Evidence)**

23 JUDGE SANDRON: So are you ready to go forward with
24 redirect or do you need a few moments?

25 MS. YASSERI: Can I request, like, a 25-minute break --

1 25-, 30-minute break, Your Honor, just to go through my notes?

2 JUDGE SANDRON: Yes.

3 MS. YASSERI: Mr. Skow's been on the stand for some time.

4 JUDGE SANDRON: Okay. It's 3:20 so we'll come back at --

5 MS. YASSERI: About 3:45?

6 JUDGE SANDRON: 3:45.

7 MS. YASSERI: Okay.

8 JUDGE SANDRON: Off the record.

9 JUDGE SANDRON: Back on the record.

10 Redirect.

11 **REDIRECT EXAMINATION**

12 Q BY MS. YASSERI: Good afternoon, Mr. Skow.

13 A Good afternoon.

14 Q Mr. Skow, on cross-examination you testified that the
15 Union's November 23rd, MOU proposal would help with voluntary
16 callouts; you remember that?

17 A Yes.

18 Q Can you explain how it would have helped with voluntary
19 callouts?

20 A With -- with putting that additional supplemental schedule
21 on, it -- it would help out, in my view, because it would make
22 people responsible and obligated to take the shift instead of
23 being -- the -- the problem was that members were -- what I was
24 told that members were holding out for the overtime and the --
25 and for the mandatory callouts. And by making them obligated

1 to take the shift, they'd be taking the regular rate of pay.
2 They would get their four hours of overtime also; but for all
3 overtime costs, I think they would have helped out.

4 Q I actually want to direct your attention to General
5 Counsel's Exhibit 33, which is the email with the attached MOU
6 from November 23rd. And I want to direct your attention to the
7 second page of the exhibit with the actual MOU.

8 A Yes.

9 Q And you -- you mentioned about making them take the
10 schedule. What -- what part of this proposal would -- would
11 sort of, put forth that requirement?

12 A Well, what I meant was -- if I -- if I understand what
13 you're asking me, that the last two qualified nonscheduled
14 people in the classification would be obligated to accept the
15 supplemental schedule assignment.

16 Q And with respect to those last two qualified nonscheduled
17 employees, would that be limited to a specific job
18 classification?

19 A Yeah. They -- in this proposal -- MOU proposal here,
20 they -- this would allow the company to put in any
21 classification they so choose.

22 Q On cross-examination you also testified that the MOU --
23 the November 23rd MOU, would have helped with mandatory
24 callouts. Can you explain that?

25 A Yes. Same thing as the voluntary overtime. These two --

1 last two qualified nonscheduled employees, if the company so
2 desired to put them on a supplemental schedule, it would -- it
3 would -- it would make them actually be obligated to the
4 schedule, and they'd be subject to the regular rate of pay
5 plus -- you know, an additional four hours of overtime.

6 Q I -- I next want to direct your attention to the topic of
7 the third man. I believe on cross-examination, you testified
8 that manning issues led to overtime issues. Can you explain
9 what you meant by that?

10 A Can you rephrase that or repeat that question, so I
11 understand it.

12 Q On -- on cross-examination you made a statement that
13 manning issues could lead to overtime issues. Can you sort of
14 explain what you meant by that?

15 A Oh, manning issues leading to overtime issues. Well, it's
16 I think -- I believe what -- what I was trying to get at, was
17 that if they're having a hard time manning the equipment, then
18 that's when your -- that's when these overtime provisions would
19 actually kick in. Because if they weren't able to man the
20 equipment, they would have to go through and offer the work for
21 overtime. And then if no one takes it, then they would be
22 forced to get the mandatory double time. Which would make --
23 if they got a hold of the person, they would have to come in.

24 Q And so going back to the November 23rd MOU, the proposal
25 that the Union was offering with respect to supplemental

1 schedules, was that providing a solution regarding manning?

2 A Yes.

3 Q And would that have also had an impact on overtime?

4 A Yes.

5 Q I'd like to next direct your attention to GC Exhibit 41, I
6 believe, the supposal. Directing your attention to the first
7 sentence of that supposal, regarding third man on the barge.
8 And I believe you testified on cross that that meant company
9 discretion, not direction?

10 A Yes, that's company discretion.

11 Q The Union agrees. How would giving the company the
12 discretion to use the third man, reduce costs?

13 A I'll be honest, if we gave them -- if -- if we were to
14 agree to that, I believe the company would have never used the
15 third man. I -- I just --

16 Q And what do you mean by that?

17 MR. HILGENFELD: I object and move to strike. It's
18 speculation outside the knowledge of this witness.

19 JUDGE SANDRON: Well, he's been asked his --

20 MR. HILGENFELD: But then he gave an opinion about what
21 someone else would do in the future, based on what he thinks
22 that they may do.

23 JUDGE SANDRON: Well, I think we -- we've gotten a lot of
24 testimony about his state of mind on a lot of matters, so I'll
25 allow it.

1 Go ahead. Oh, did you answer? Is that your answer?

2 THE WITNESS: Yep. That's my answer.

3 JUDGE SANDRON: All right.

4 Q BY MS. YASSERI: Would giving the company discretion to
5 use the third man have an impact on overtime?

6 A I don't believe it would have much impact on overtime.

7 Q Would it have an impact on regular labor costs?

8 A Yes, it would.

9 Q I'd like to direct your attention to General Counsel's
10 Exhibit 36, please. And specifically, to the second page of
11 the exhibit, to Mr. Vartan's December 1st, 2020, email to you.

12 A Yes.

13 Q I want to direct your attention to the last sentence of
14 the -- the email, where Mr. Vartan states that the IBU should
15 have considered real cost-cutting measures, like a reduction in
16 hourly rates, benefits, eliminating the third man position,
17 covering work with a deckhand, and/or switching to company
18 medical.

19 A Yes.

20 Q Mr. Skow, at any time prior to December 1st, 2020, had
21 Westoil provided the IBU with any specific proposals related to
22 benefits?

23 A No.

24 Q And any time prior to December 1st, 2020, had Westoil
25 provided the IBU with any specific proposals regarding

1 eliminating the third man?

2 A No.

3 Q At any time prior to December 1st, 2020, had Westoil
4 provided the IBU with any specific proposals regarding covering
5 work with a deckhand?

6 A No.

7 Q At any time prior to December 1st, 2020, had Westoil
8 provided the IBU with any specific proposals regarding
9 switching to the company medical?

10 MR. HILGENFELD: Objection. Asked and answered.

11 JUDGE SANDRON: I think you --

12 MR. HILGENFELD: You started with company medical.

13 JUDGE SANDRON: -- asked him that already.

14 MS. YASSERI: Oh, I'm sorry. Thank you.

15 Q BY MS. YASSERI: I want to start to talk a little bit now
16 about hourly rates. What -- what was discussed between the IBU
17 and Westoil, about hourly rates?

18 A I believe -- the one thing that I could recall was that in
19 the -- the November 9th, meeting --

20 A Yes.

21 Q -- Brian Vartan told us that he was not seeking reductions
22 in hourly rates.

23 Q I want to take you back, Mr. Skow, to that November 6,
24 2020, meeting that occurred via Zoom. I believe you testified
25 about that on cross-examination.

1 A Yes.

2 Q Did you know, at the time of the meeting, that Westoil had
3 already submitted a bid that had been rejected?

4 MR. HILGENFELD: I'm sorry. What date?

5 MS. YASSERI: November 6, 2020.

6 A It was -- I -- when that phone call with Brian Vartan
7 prior -- prior to November 6, that he had stated in there that
8 he had a bid that was rejected; that's what I do remember. I
9 recall.

10 Q BY MS. YASSERI: Now when Mr. Hilgenfeld, on cross-
11 examination, asked you about the work preservation clause, you
12 remember that?

13 A Yes.

14 Q You testified that your -- the IBU -- or you were already
15 covered by the CBA. What did you mean by that; already covered
16 by the CBA?

17 A What I meant by that was that for years, we've -- we never
18 had any issues come up with -- with fighting over any type of
19 work jurisdiction. So I believe that our agreement was our
20 protection. It protected us because we -- we never had any
21 issues.

22 Q Okay. I want to also ask you about the December 9th,
23 meeting that happened over Zoom. You talked about that as well
24 on cross-examination.

25 A Yes.



1 Q I believe you said that you felt like it was a waste of a
2 meeting. What do you mean by that?

3 A Because I felt like we were -- we weren't getting
4 anywhere. There wasn't any productive -- nothing productive --
5 it was coming back and forth. I mean, we -- I was attempting
6 to get a -- some type of labor cost number. Because -- because
7 of Brian's email from that December 1st, listing all of
8 those -- these cost cutting measures. By reading that, to me,
9 that they had some kind of number in mind and all I wanted to
10 know was the number. And if -- if I had that number, then I
11 could go back and like I said, make adjustments to our
12 proposal, consider other things. Maybe consider some of these
13 things that were on there. It was -- it's just frustrating.

14 JUDGE SANDRON: Did you get any numbers, at all?

15 THE WITNESS: I -- I did eventually, from Mr. Houghton. I
16 did.

17 JUDGE SANDRON: But not at that time?

18 THE WITNESS: No, because they -- the -- he was -- Brian
19 had told me that they did not know the number. In -- in my
20 experience -- I've bargained a lot of contracts and that,
21 and --

22 MR. HILGENFELD: I'm going object to this.

23 JUDGE SANDRON: Okay. I think --

24 THE WITNESS: Yeah. I'm sorry.

25 JUDGE SANDRON: -- you're going beyond the question.

1 THE WITNESS: I -- yeah. I'm sorry.

2 Q BY MS. YASSERI: Mr. Skow --

3 A I apologize.

4 Q -- at any point after that first meeting on November 6th
5 of 2020, did you get any -- did you ever get any costing
6 information from Mr. Vartan or anybody else at Westoil?

7 A No.

8 Q Mr. Skow, did the IBU ever waive the right to bargain over
9 Westoil could reassign work to another company?

10 A No.

11 Q Did the IBU --

12 MR. HILGENFELD: Objection. Calls for a legal conclusion.
13 And contract speaks for itself.

14 JUDGE SANDRON: Maybe you can put it in another way.

15 MS. YASSERI: Okay.

16 JUDGE SANDRON: I don't know if you could say -- did --
17 did you -- maybe if you can say it like this; I don't know if
18 it's any better. But did you ever decline to bargain?

19 THE WITNESS: No, never declined.

20 Q BY MS. YASSERI: Mr. Skow, to your knowledge, did the IBU
21 ever waive their right to bargain over whether Centerline could
22 reassign work?

23 MR. HILGENFELD: Objection.

24 JUDGE SANDRON: Maybe just change it to declined to
25 Vartan. In that way you avoid the legal term. Do you want to

1 ask him that?

2 MS. YASSERI: Yeah.

3 Q BY MS. YASSERI: Did the IBU ever decline to bargain with
4 Centerline --

5 A No. right to reassign work?

6 Q -- the right to reassign work?

7 A No.

8 Q Mr. Skow, did the IBU ever decline to bargain with Harley
9 Marine Financing over the right to reassign work?

10 A No.

11 Q Mr. Skow, did the IBU ever agree that Westoil could
12 reassign bargaining unit work?

13 A No.

14 Q Did the IBU ever agree that Centerline could unilaterally
15 reassign bargaining unit work?

16 A No.

17 Q Did the IBU ever agree that Harley Marine Financing could
18 unilaterally reassign bargaining unit work?

19 A No.

20 Q You also mentioned on cross-examination, Mr. Skow, about
21 after being informed of Westoil's impending closure on December
22 1st, 2022, that the IBU presented Westoil with the Save Westoil
23 proposal?

24 A Yes.

25 Q To date, has the IBU received a response to that proposal

1 from Westoil?

2 A No.

3 MS. YASSERI: Your Honor, may I just have one minute? I
4 think I'm almost done.

5 JUDGE SANDRON: Yes. You want to go off the record or --

6 MS. YASSERI: If we may.

7 JUDGE SANDRON: All right. Go off the record.

8 MS. YASSERI: Thank you.

9 (Off the record at 4:11 p.m.)

10 JUDGE SANDRON: On the record.

11 MS. YASSERI: Thank you.

12 Q BY MS. YASSERI: Mr. Skow, just a quick -- quick
13 clarification. Did the IBU ever agree that Westoil could
14 unilaterally reassign work?

15 A No.

16 Q Finally, I want to go back. You testified about your
17 phone call with Brian Vartan on November 25th, 2020, after you
18 received his email stating, "This is not going to help us". At
19 the time of that call, had Westoil provided the IBU with a
20 counterproposal to its November 23rd MOU?

21 A No.

22 Q I have no further questions. Thank you, Mr. Skow.

23 JUDGE SANDRON: Ms. Derry?

24 MS. DERRY: Thank you, Your Honor.

25

REDIRECT EXAMINATION



1 Q BY MS. DERRY: Good afternoon, Mr. Skow.

2 A Good afternoon.

3 Q Earlier, the Judge asked you a question about Grievance
4 2104, and it -- there was a back and forth with -- with counsel
5 about whether the Union asserted at the grievance meeting
6 whether other provisions of the contract were violated aside
7 from what was listed in the grievance. What do you recall
8 being discussed at the (indiscernible) grievance meeting for
9 2104?

10 A Was that the meeting on the 5th of March? I --

11 Q You know, I'm not sure. I believe the Judge's question
12 and Mr. Hilgenfeld's question -- they were asking about 20 --
13 Grievance 2104. And -- and you --

14 A I --

15 Q -- were asked by the Judge whether at the grievance
16 meeting you actually talked about any other contract
17 provisions?

18 A All was discussed was the company. When we -- what I
19 recall, we presented the grievance and Mr. Hilgenfeld said
20 that -- that the company was going to maintain the position
21 that it was untimely.

22 Q Were any -- was anything about the merits of the grievance
23 discussed at that meeting?

24 A No.

25 Q I see. And I just wanted to go back on -- on one other

1 point. Ms. -- Ms. Sanam was -- I see. General Counsel was
2 just asking you about bargaining unit work. What is your
3 understanding of what bargaining unit work is?

4 MR. HILGENFELD: Objection. Calls for a legal conclusion.

5 JUDGE SANDRON: We've had a lot of testimony about --

6 MS. DERRY: To -- to be clear, I'm -- I'm trying to ask
7 him --

8 JUDGE SANDRON: Go ahead.

9 MS. DERRY: -- layman's understanding. He was asked a
10 question about bargaining unit work and I would like to know,
11 on the record, what -- what he thinks bargaining unit work is
12 when he uses that term and answered the questions.

13 JUDGE SANDRON: All right. I think -- as I -- I think I
14 said very early on in the proceedings, if there's an objection,
15 then counsel doesn't have to respond unless I -- I ask for it.
16 Because I -- I -- I think that, as I was saying, you know,
17 we've had a lot of testimony about the Union's motivation and
18 Mr. Skow's state of mind. So I'll allow you to ask him his
19 view of what collective bargaining means to him.

20 So do -- do you know -- you want the question repeated or
21 you --

22 THE WITNESS: Please repeat the question.

23 Q BY MS. DERRY: Of course. When you use the term
24 bargaining unit work, what is your personal understanding of
25 what that term means? Or to put it another way, what are you

1 referring to when you use that term?

2 A Well, the way I see it, it's any work that the company
3 assigns us.

4 Q Would you consider work performed by IBU members or
5 Westoil to be bargaining unit work then?

6 MR. HILGENFELD: Objection. Leading.

7 JUDGE SANDRON: Yeah. He -- he -- he's still your -- your
8 witness, of sorts.

9 MS. DERRY: Understood. I will withdraw the question.

10 Q BY MS. DERRY: Would work that was never done by
11 bargaining unit members be considered bargaining unit work?

12 A Yes.

13 Q Could you --

14 A I'm sorry. Could you repeat the question?

15 Q Yes.

16 A I may have not understood the question. I apologize.

17 MS. DERRY: You know, I will withdraw the question and
18 move to strike, because I don't think it was a clear question.
19 I think we were all confused.

20 JUDGE SANDRON: Okay. You -- you wish to rephrase it or
21 go on to another question?

22 MS. DERRY: I will rephrase.

23 JUDGE SANDRON: Although, I think the -- what bargaining
24 unit -- bargaining unit work would be, is contextual. And I
25 would assume even if there's no -- no current incumbents in --

1 in those positions, they would still be covered under the
2 contract if those positions were later filled.

3 Correct, Mr. Hilgenfeld?

4 MR. HILGENFELD: It would be the employer's position that
5 the contract defines the bargaining unit --

6 JUDGE SANDRON: Right.

7 MR. HILGENFELD: -- and the work itself. Whatever the
8 contract says is the bargaining unit and the work.

9 JUDGE SANDRON: Right. And that would include
10 classifications that might not yet be filled, or -- or
11 positions not yet filled, if they come within the parameters of
12 the bargaining unit.

13 MS. DERRY: Understood. I think I -- I think I think I
14 offered a poorly worded question.

15 JUDGE SANDRON: What were you trying to get at? That --
16 that new work would come under the contract, if -- if it's
17 under the classifications in the contract? Maybe I didn't get
18 what you're looking for.

19 MS. DERRY: I -- let me -- let me try this.

20 Q BY MS. DERRY: Mr. Skow, if work is being performed by an
21 employer that IBU does not have a collective bargaining
22 agreement with, in your mind would that be bargaining unit
23 work?

24 MR. HILGENFELD: I -- I'm sorry. I don't understand your
25 question. I apologize. Could you rephrase it?

1 MS. DERRY: Well, I'm trying to -- I'm trying to clarify.
2 You asked him some questions earlier about contracts, and I
3 don't think he understood what you're asking him.

4 MR. HILGENFELD: No, that's fine. I just didn't
5 understand your question.

6 MS. DERRY: Yeah, I'm -- I'm. Yeah, that's fine. Well,
7 he's defined on the record what he views as bargaining unit
8 work. So I suppose I will leave it there for today, and I have
9 no further questions.

10 JUDGE SANDRON: Okay. Any -- any recross?

11 MR. HILGENFELD: Very, very short, I promise.

12 **RECROSS-EXAMINATION**

13 Q BY MR. HILGENFELD: Mr. Skow, you just stated that you had
14 never had an issue before with what work that was being
15 performed by Westoil, which is why you did not believe the work
16 preservation clause was needed. Did I understand that correct?

17 A Yes.

18 Q But in fact, in 2014, during the prior agreement, IBU
19 filed a grievance that OTB was performing Westoil work,
20 correct?

21 A That's correct.

22 Q And in 2015, there was an arbitrator decision that
23 awarded -- that stated that the OTB work was not Westoil work,
24 correct?

25 MS. YASSERI: Objection. Assumes facts not in evidence.

1 MR. HILGENFELD: Well, it is in evidence. The
2 arbitrator's decision is Respondent's 121, which Mr. Skow was a
3 witness in.

4 MS. YASSERI: I'm sorry. I thought you referred to 2014.

5 MR. HILGENFELD: The grievance was in 2014. The
6 arbitration was in 2015.

7 JUDGE SANDRON: I agree it's in the record --

8 MS. YASSERI: The document also speaks for itself. It's
9 in the record.

10 MR. HILGENFELD: But he just testified. He can't say
11 something contrary to the document, then be questioned on it.
12 And then say the document speaks for itself. He testified that
13 there was no reason to bring it up, but there is a document in
14 the record that Mr. Skow is aware of, where work preservation
15 was exactly at issue. And in the prior agreement, which is
16 what the 2017 and 2018 negotiations were about, Mr. Skow knew
17 that.

18 JUDGE SANDRON: Well, do you recall that now that counsel
19 has mentioned it?

20 THE WITNESS: Yes.

21 Q BY MR. HILGENFELD: Mr. Skow, did Brian Vartan discuss the
22 Glencore transfer of work with you in November and December of
23 2020?

24 A I don't recall.

25 Q Mr. Skow, did Doug Houghton discuss the Glencore transfer



1 work with you in November of 2020, December of 2020, or January
2 of 2021?

3 A He -- on December 28th, 2020, he informed me that -- that
4 the Westoil -- or not -- I'm sorry. The Glencore contract was
5 assigned to another Centerline subsidiary.

6 Q And on November 6th, Mr. Houghton and Mr. Vartan discussed
7 the Glencore transfer work with IBU, correct?

8 A Yes.

9 Q And you filed a grievance identifying Section 5.2(c) as
10 the basis for your grievance, correct?

11 A Yes.

12 Q And Section 5.2(c) deals with the distribution of work.
13 And the companies provide to do it, so long it discusses the
14 matter with the Union, correct?

15 MS. YASSERI: Objection. The document speaks for itself.
16 The contract's in the record.

17 MR. HILGENFELD: Well, the counsel just asked if there's
18 anything that they had waived regarding the reassignment of
19 work. Was there any discussions regarding the reassignment of
20 work?

21 JUDGE SANDRON: Well, I think -- I think you can argue
22 that from the documents.

23 Q BY MR. HILGENFELD: Mr. Skow, I'd have you turn your
24 attention. I would just note for the record, Section 5.2(c),
25 on General Counsel's 28, can you please look at this?

1 A Okay.

2 JUDGE SANDRON: Well, I don't think he has to look at it.

3 I mean, you noted --

4 MR. HILGENFELD: I -- I'm asking the -- this is the -- he
5 identified 5.2(c) in his grievance. I just want to confirm
6 that this is a actual provision he was referencing.

7 JUDGE SANDRON: All right.

8 Q BY MR. HILGENFELD: Do you see that, Mr. Skow?

9 A Let me look at the grievance just to double-check.

10 Q Certainly. And the grievance is -- Grievance Number 49 is
11 one of them and 46 is the other.

12 A Okay. Let me dig through here. Okay. Yes. 5.2(c).

13 Q And if you look at GC Exhibit 28, Section 5 is on page 4.
14 Is that Section 5.(c) that you're referencing in your
15 grievance?

16 A Let me go through these docs. Yes.

17 Q Thank you, Mr. Skow. No further questions.

18 JUDGE SANDRON: Any re-redirect?

19 MS. YASSERI: No, Your Honor. Thank you.

20 JUDGE SANDRON: And any redirect, Ms. Derry?

21 MS. DERRY: No, Your Honor.

22 JUDGE SANDRON: All right.

23 Mr. Skow, thank you for your time. Your -- your testimony
24 is concluded.

25 THE WITNESS: Thank you.

1 MR. HILGENFELD: Hurry and run, John.

2 JUDGE SANDRON: I'll -- I'll leave it to counsels, to tell
3 witnesses what I had earlier said about not discussing
4 testimony with other witnesses until after the trial is over.

5 All right. Well, Mr. Skow is done. And I -- I understand
6 that subject to certain documents that the General Counsel is
7 going to be offering, and subject to possibly rebuttal, that
8 the General Counsel rest at this point. Or do you have
9 anything further right now?

10 MS. YASSERI: Yes. We have some additional documents,
11 Your Honor, that we'd like to enter into the record for
12 tomorrow morning first thing.

13 JUDGE SANDRON: All right.

14 MS. YASSERI: But after that time and -- and perhaps
15 addressing one last procedural item, other than that, then we
16 would rest.

17 JUDGE SANDRON: And then we can start with the, you know,
18 Respondent's case-in-chief?

19 MR. HILGENFELD: Yes, Your Honor.

20 JUDGE SANDRON: All right. Well, I'll see everybody
21 tomorrow morning and have a good evening. We'll get started
22 tomorrow morning.

23 MR. HILGENFELD: Thank you.

24 MS. YASSERI: Thank you.

25 JUDGE SANDRON: Take care.

1 MS. DERRY: Thank you.

2 JUDGE SANDRON: Bye, everybody.

3 **(Whereupon, the hearing in the above-entitled matter was**
4 **recessed at 4:27 p.m. until January 25, 2023 at 9:00 a.m.)**

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C E R T I F I C A T I O N

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 21, Case Numbers 19-CA-273208, 19-CA-273220, 19-CA-273226, 19-CA-273928, 19-CA-273985, 19-CA-273771, 19-CA-273986, 21-CA-273926, Leo Marine Services, Inc., Olympic Tug & Barge, Inc., and Centerline Logistics Corporation and Olympic Tug & Barge, Inc. and Centerline Logistics Corporation and Leo Marine Services, Inc. and Centerline Logistics Corporation, Westoil Marine Services, Inc., and Harley Marine Financing, LLC, held at the National Labor Relations Board, Region 21, 26 Federal Plaza, Room 36-130312 N. Spring Street, Suite 10150, Los Angeles, California 90012-4701, on January 24, 2023, at 9:32 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.


JACQUELINE DENLINGER

Official Reporter

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:

Leo Marine Services, Inc., Case Nos. 19-CA-273208
Olympic Tug & Barge, Inc., and
Centerline Logistics
Corporation,

and

Olympic Tug & Barge, Inc., 19-CA-273220

and

Centerline Logistics 19-CA-273226
Corporation, 19-CA-273928

and

Leo Marine Services, Inc., 19-CA-273985

and

Centerline Logistics 19-CA-273771
Corporation, Westoil Marine
Services, Inc., and Harley
Marine Financing, LLC,

and

Seafarers International Union, 19-CB-273986

and

Inlandboatmen's Union of the
Pacific,

and



Centerline Logistics
Corporation, Leo Marine
Services, Inc., and Olympic Tug
& Barge, Inc.

21-CA-273926

and

International Organization of
Masters, Mates & Pilots, AFL-
CIO.

Place: Los Angeles, California

Dates: January 25, 2023

Pages: 2658 through 2850

Volume: 19

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(602) 263-0885



UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 21

<p>In the Matter of: LEO MARINE SERVICES, INC., OLYMPIC TUG & BARGE, INC., AND CENTERLINE LOGISTICS CORPORATION,</p>	<p>Case Nos. 19-CA-273208</p>
<p>and</p> <p>OLYMPIC TUG & BARGE, INC.,</p>	<p>19-CA-273220</p>
<p>and</p> <p>CENTERLINE LOGISTICS CORPORATION,</p>	<p>19-CA-273226 19-CA-273928</p>
<p>and</p> <p>LEO MARINE SERVICES, INC.,</p>	<p>19-CA-273985</p>
<p>and</p> <p>CENTERLINE LOGISTICS CORPORATION, WESTOIL MARINE SERVICES, INC., AND HARLEY MARINE FINANCING, LLC,</p>	<p>19-CA-273771</p>
<p>and</p> <p>SEAFARERS INTERNATIONAL UNION</p>	<p>19-CB-273986</p>
<p>and</p> <p>INLANDBOATMEN'S UNION OF THE PACIFIC</p>	
<p>and</p>	

21-CA-273926

CENTERLINE LOGISTICS
CORPORATION, LEO MARINE
SERVICES, INC., AND OLYMPIC TUG
& BARGE, INC.

and

INTERNATIONAL ORGANIZATION OF
MASTERS, MATES & PILOTS, AFL-
CIO

The above-entitled matter came on for hearing, via Zoom
videoconference, pursuant to notice, before **IRA SANDRON**,
Administrative Law Judge, at the National Labor Relations
Board, Region 21, 26 Federal Plaza, Room 36-130312 N. Spring
Street, Suite 10150, Los Angeles, California 90012-4701, on
Wednesday, January 25, 2023, 9:20 a.m.



A P P E A R A N C E S

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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Jennifer Beckman	2702	2797			

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E X H I B I T S

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EXHIBITIDENTIFIEDIN EVIDENCE

4

General Counsel:

5

GC-242 through 283, Under Seal

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GC-111

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GC-112

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GC-113

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GC-114

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GC-126

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GC-127

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GC-128

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GC-129

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GC-189

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GC-2

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1	GC-3	2699	
2	GC-4	2699	
3	GC-5	2699	
4	GC-150	2824	2826
5	GC-217	2822	
6	GC-293	2824	2826
7			
8	Respondent :		
9	R-15		2723
10	R-17		2727
11	R-25		2782
12	R-27		2785
13	R-31	2748	
14	R-18	2833	
15	R-19	2830	
16	R-20	2822	
17	R-31	2822	2825
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P R O C E E D I N G S

JUDGE SANDRON: Back on the record. The parties had discussed yesterday, off the record, the matter of the logistics of getting spreadsheets that -- that actually, we'll go ahead and mark them now, just so we have it. Those would be General Counsel's -- bless you. Those would be General Counsel's Exhibits 242 to 283, which are spreadsheets and I think I'll let the General Counsel explain what they represent. So do you want to do that, Mr. Rimbach?

MR. RIMBACH: Sure. These exhibits from GC Exhibit 242 through GC Exhibit 283, they are Excel spreadsheets in the native format. So they consist of general ledgers, including direct costs, general and admin expenses, and revenue for the years 2020, 2021, and 2022 for Harley Marine Financing, Centerline, Westoil, Olympic Tug & Barge, and Leo Marine Services, as well as certain monthly income statements.

JUDGE SANDRON: Now, which companies do they represent again? You said --

MR. RIMBACH: All five of the Respondents, Your Honor.

JUDGE SANDRON: All five? All right. The only thing I would just point out, when we go through all these documents, is that the issue of the single employer status of Leo Marine, Centerline, and Olympic Tug & Barge is already decided.

MR. RIMBACH: Correct, Your Honor.

JUDGE SANDRON: We'll get every -- you know, all the

1 documents in, but it's going to go when the parties file their
2 briefs as well. Those -- those as a single employer is already
3 decided.

4 MR. RIMBACH: Yes, Your Honor. And we are offering these
5 exhibits to show the interrelation of operations between those
6 subsidiaries and Harley Marine Financing --

7 JUDGE SANDRON: Okay.

8 MR. RIMBACH: -- which was not part of the --

9 JUDGE SANDRON: Right.

10 MR. HILGENFELD: That's not part of the complaint. The
11 only part of the complaint about a single employer is Harley
12 Marine Financing, Westoil, and Centerline. That is the
13 complaint.

14 JUDGE SANDRON: Well --

15 MR. RIMBACH: Your Honor, all five of the Respondents are
16 alleged as a single employer in the complaint.

17 MR. HILGENFELD: In the complaint, based on the
18 allegations alleged, it's dealing with Westoil, Centerline.
19 It's dealing with one discrete act, which is dealing with
20 Glencore.

21 MR. RIMBACH: Your Honor, paragraph 3A of the complaint
22 alleges, Respondent Centerline, Olympic Tug & Barge --

23 JUDGE SANDRON: Right.

24 MR. RIMBACH: -- Leo Marine, Westoil --

25 JUDGE SANDRON: I believe it does.

1 MR. RIMBACH: -- and Harley Marine Financing have been
2 affiliated business enterprises.

3 JUDGE SANDRON: Right. Right. All right. I -- I think
4 that's accurate. So -- but I think, as far as the single
5 employer and integrated operation, it's already basically res
6 judicata as far as the ones I mentioned.

7 MR. RIMBACH: Understood, Your Honor.

8 JUDGE SANDRON: So it's -- so it's a matter of whether the
9 other two Respondents are also covered under that umbrella.
10 But we'll go ahead then. And I think you -- you want to go
11 ahead and tell me what the General Counsel is supposing as far
12 as getting these documents into the record?

13 MR. RIMBACH: Sure. I believe the parties agree that
14 these documents would be distributed by USB drive. A copy will
15 also be emailed to the administrative law judge, but will only
16 be distributed by USB drive to the court reporter and the
17 parties. And they will also be submitted under the protective
18 order which the -- which Your Honor issued and signed. That is
19 in the record as Joint Exhibit 1.

20 JUDGE SANDRON: And Mr. Hilgenfeld, do you want to state
21 your position?

22 MR. HILGENFELD: I would, Your Honor. Thank you. This
23 issue was raised yesterday evening, at the close. It was
24 brought forward. The Respondents object generally to any of
25 the financial information being provided. This is very

1 extensive, highly confidential, proprietary information that
2 deals with every transaction on all five companies over a
3 three-year period. This goes above and beyond any minimal
4 effort of relevance that it may have, and is highly prejudicial
5 to my client.

6 I understood Your Honor's ruling that they were going to
7 be admitted into the record. But given an opportunity to, this
8 morning, talk to my client to determine if my client wanted to
9 seek any type of intervention in the meantime, my client has
10 elected not to do so. The client had sought to have the
11 information put into the record under PDF versions. It has
12 been -- I understood Your Honor's ruling that you were going to
13 allow Excel versions, with that understanding -- General
14 Counsel did highlight the protective order, which we do
15 appreciate. We still feel like it's highly prejudicial, but we
16 understand Your Honor's ruling. We're just making that
17 objection for the record.

18 JUDGE SANDRON: Actually, I did not really make any
19 rulings. It was a -- a -- what do you call it -- leaning -- or
20 I wouldn't call it a leaning, but it was my preliminary view
21 that I expressed off the record, so I didn't actually make a
22 ruling. I will make it now.

23 MR. HILGENFELD: I apologize, Your Honor. I guess our
24 objection would be there for the weight of your ruling, we -- so
25 I apologize. I wasn't trying to --

1 JUDGE SANDRON: But no. No, that's fine.

2 MR. HILGENFELD: -- put words in your mouth.

3 JUDGE SANDRON: But we did have an extensive discussion.
4 Go ahead, Mr. Rimbach.

5 MR. RIMBACH: If I could just note my response to those
6 objections. We do believe that all these records in unredacted
7 form are highly relevant. The Respondent has previously
8 offered only redacted versions of certain similar documents,
9 which we believe is misleading. The underlying data and
10 financial information go to the very heart of the matter, with
11 respect to whether the Respondents operate separate -- separate
12 businesses from each other and maintain their own bank
13 accounts, books, records, and financial records. So we do
14 believe that the underlying data is probative. The Respondents
15 themselves have made these documents relevant by offering them
16 in redacted form.

17 JUDGE SANDRON: Well, I think that the issue of relevance
18 is disputed and cannot be determined right at this moment.
19 The -- as far as the Employer's concerns for the
20 confidentiality and information, I -- I recognize their
21 concern. However, I feel that with the documents being on --
22 placed on UCB (sic) drives and placed under protective order,
23 that that gives an assurance that they will not be
24 unnecessarily disclosed.

25 MR. HILGENFELD: Thank you, Your Honor.

1 MR. RIMBACH: And also, just to note for the record, the
2 protective order does require the parties who receive these
3 documents to secure and maintain them to avoid disclosure or
4 dissemination of its contents to any person not identified as
5 part of this proceeding or certain other purposes related to
6 this proceeding.

7 JUDGE SANDRON: That's -- that's noted. I recall that.
8 All right. So do you want to then -- I think you -- you were
9 going to go through each one?

10 MR. RIMBACH: Yes, Your Honor.

11 JUDGE SANDRON: And I understand that, I think as Ms.
12 Yasserli had stated off -- off the record, which is helpful,
13 that when we -- before we adjourn, the -- or actually close the
14 record that there'd be a stipulated list of documents that
15 are -- have been placed under the protective order. And that
16 would include the legend regarding these exhibits that would be
17 on the UCB (sic) drive, correct?

18 MR. RIMBACH: Yes, Your Honor. And we can prepare that
19 before the close of the hearing to include all documents
20 admitted under the protective order from both parties.

21 JUDGE SANDRON: Yes, that would be helpful. So do you
22 want to, then, start going through the documents and what they
23 represent?

24 MR. RIMBACH: Yes. Thank you, Your Honor. First, I'd
25 like to go through certain documents that are from Harley

1 Marine Financing. First, I'd like to just note that there were
2 no Harley Marine Financing general ledgers for revenue that
3 exist or were provided. I understand that the Respondents
4 are -- are able to stipulate to that?

5 JUDGE SANDRON: That --

6 MR. HILGENFELD: I'm sorry, Thomas. Can you read that
7 again?

8 MR. RIMBACH: Oh, sure. That there are no revenue ledgers
9 from Harley Marine Financing.

10 MR. HILGENFELD: That is correct.

11 MR. RIMBACH: So now what is displayed here is General
12 Counsel's Exhibit 242, is the Harley Marine Financing general
13 ledger for direct costs. I'd like to offer this Exhibit into
14 evidence.

15 JUDGE SANDRON: Well, I think it might be -- maybe you can
16 go through --

17 MR. HILGENFELD: May I --

18 JUDGE SANDRON: Yes?

19 MR. HILGENFELD: May I make a suggestion?

20 JUDGE SANDRON: Yes.

21 MR. HILGENFELD: I think we know what we're talking about
22 here. Can we just put that in writing and then give it to
23 them, and we can do this off the record and move forward?

24 MR. RIMBACH: Sure.

25 JUDGE SANDRON: Yeah, I think that's good.



1 MR. RIMBACH: I'd just like to make a -- I think I can go
2 through it pretty quickly without displaying them, then. I
3 just would like to note a couple of -- a couple of items, just
4 for clarification, for some of these exhibits, because some of
5 them --

6 JUDGE SANDRON: Well, have you given Mr. Hilgenfeld a -- a
7 copy of the list?

8 MR. RIMBACH: Yes, Your Honor.

9 JUDGE SANDRON: You have them?

10 MR. HILGENFELD: We have the list, Your Honor. And I
11 don't mind sharing with the court reporter and Your Honor if
12 there's a couple of small points to make. That would seem to
13 expediate things.

14 JUDGE SANDRON: Yeah. I don't know if we need to go
15 through -- I assume -- are they. Let me ask you this. I
16 haven't seen them all. Are --

17 MR. RIMBACH: I think it'll take me a couple of minutes,
18 Your Honor, just to walk through them very briefly, just to
19 correctly identify, because some of the names --

20 JUDGE SANDRON: Oh, I see.

21 MR. RIMBACH: -- listed here for the company, they don't
22 necessarily identify --

23 JUDGE SANDRON: Oh, all right. I see.

24 MR. RIMBACH: -- the current correct name of the company.
25 For example --

1 JUDGE SANDRON: I see.

2 MR. RIMBACH: -- Centerline may say "HMS" --

3 JUDGE SANDRON: Oh, okay. I see.

4 MR. RIMBACH: -- instead of Centerline. So I'd just like
5 to make a note --

6 JUDGE SANDRON: All right. Go ahead.

7 MR. RIMBACH: -- in the record, just for clarification.

8 JUDGE SANDRON: So -- so 242 relates to Harley Marine
9 Financing?

10 MR. RIMBACH: Yes, Your Honor.

11 JUDGE SANDRON: All right. Then go ahead.

12 MR. RIMBACH: Okay. 243 is, again, the direct cost ledger
13 for Harley Marine Financing for 2021. GC Exhibit 244 is the
14 direct cost ledger for Harley Marine Financing for 2022. GC
15 Exhibit 245 --

16 JUDGE SANDRON: Yeah, go a little slower here. 245 is?

17 MR. RIMBACH: Is the general and admin expenses ledger for
18 Harley Marine Financing for 2020.

19 JUDGE SANDRON: Okay.

20 MR. RIMBACH: General Exhibit -- excuse me, General
21 Counsel's Exhibit 246 is the general and admin expenses ledger
22 for Harley Marine Financing for 2022. For -- I'd just like to
23 note on the record that Centerline also has no revenue ledgers.
24 And I believe --

25 JUDGE SANDRON: Is that --

1 MR. RIMBACH: -- the Respondents are able to stipulate to
2 that.

3 JUDGE SANDRON: Will -- will you stipulate to that?

4 MR. HILGENFELD: That's correct. Centerline does not
5 have -- does not have revenue.

6 JUDGE SANDRON: All right. Go ahead.

7 MR. RIMBACH: I'll go through the next --

8 JUDGE SANDRON: Then we'll accept the stipulation.

9 MR. RIMBACH: I'll go through the next three together.
10 General Counsel's Exhibits 247, 248, and 249 are Centerline's
11 direct cost ledgers for 2020, 2021, and 2022, respectively. I
12 believe some of these ledgers may refer to the entity as "HMS",
13 but that should be Centerline, because Centerline is the new
14 name for Harley Marine Services, and that applies to the next
15 three exhibits as well.

16 JUDGE SANDRON: All right. Would you agree, Mr.
17 Hilgenfeld, to that?

18 MR. HILGENFELD: I'm -- I'm sorry. I was zoning out.

19 MR. RIMBACH: So for certain Centerline ledgers, I believe
20 a couple of them may say "HMS" instead of Centerline.

21 MR. HILGENFELD: We -- we would stipulate that Centerline
22 is referred to HMS on different things -- Harley Marine
23 Services. We would also stipulate that "SMS", or "Starlight
24 Marine Services" is referred to and is Leo Marine Services.
25 They're used interchangeably.

1 JUDGE SANDRON: Thank you. All right. We'll -- we'll
2 consider those --

3 MR. RIMBACH: Thank you.

4 JUDGE SANDRON: -- to be stipulations.

5 MR. RIMBACH: That's helpful. So next, I'll go through
6 the next two together. GC Exhibits 250 and 251 are
7 Centerline's general and admin expenses ledgers for 2020 and
8 2022, respectively. I'll go through the next three together.
9 GC Exhibits 252, 253, and 254 are Westoil's monthly income
10 statements for the years 2020, 2021, and 2022, respectively.
11 GC Exhibits 255, 256, and 257 are Westoil's revenue ledgers for
12 the years 2020, 2021, and 2022, respectively. GC Exhibits 258,
13 259, and 260 are Westoil's direct cost ledgers for the years
14 2020, 2021, and 2022, respectively. General Counsel's Exhibits
15 261, 262, and --

16 JUDGE SANDRON: All right. Go a little slower.

17 MR. RIMBACH: I apologize.

18 JUDGE SANDRON: All right.

19 MR. RIMBACH: General Counsel's Exhibits 261 --

20 JUDGE SANDRON: 251?

21 MR. RIMBACH: 261 --

22 JUDGE SANDRON: Oh, there it is -61.

23 MR. RIMBACH: -- 262 --

24 JUDGE SANDRON: Oh, wait one second.

25 MR. RIMBACH: -- and 263 are Westoil's general and admin

1 expenses ledgers. And those are for the years 2020, 2021, and
2 2022, respectively. GC Exhibits 264, 265, and 266 are Olympic
3 Tug & Barge's monthly income statements. And those are for the
4 years 2020, 2021, and 2022, respectively. General Counsel's
5 Exhibits 267, 268, and 269 are Olympic Tug & Barge's revenue
6 ledgers for the years 2020, 2021, and 2022, respectively.
7 General Counsel's Exhibits 270, 271, and 272 are Olympic Tug &
8 Barge's direct-cost ledgers for the years 2020, 2021, and 2022,
9 respectively.

10 General Counsel Exhibits 273, 274, and 275 are Olympic Tug
11 & Barge's general and admin expenses ledgers for the years
12 2020, 2021, and 2022, respectively. General Counsel's Exhibits
13 276 and 277 are Leo Marine Services' monthly income statements
14 for the years 2021 and 2022, respectively. These ledgers might
15 also say "SMS", as the Respondent previously mentioned --
16 Respondent's counsel -- as well as the forthcoming exhibits.
17 GC Exhibits 278 and 279 are Leo Marine Services' revenue
18 ledgers for the years 2021 and 2022, respectively.

19 GC Exhibits 280 and 281 are Leo Marine Services' direct-
20 cost ledgers for the years 2021 and 2022, respectively. And
21 last, we have GC Exhibits 282 and 283, and these are Leo Marine
22 Services' general and admin expenses ledgers for the years 2021
23 and 2022, respectively. I'd like to offer these exhibits into
24 evidence, Your Honor.

25 JUDGE SANDRON: All right. Mr. Hilgenfeld, I understand



1 you've already voiced your objections on the record.

2 MR. HILGENFELD: That's correct, Your Honor.

3 JUDGE SANDRON: All right. I'll -- I'll admit the
4 documents as we discussed in the manner that is already on the
5 record, as far as being on the UCB (sic) drive and the
6 documents considered to be placed under seal.

7 **(General Counsel Exhibit Numbers 242 through 283, Under Seal,**
8 **Received into Evidence)**

9 MR. RIMBACH: Thank you, Your Honor.

10 JUDGE SANDRON: So -- so is there anything else that the
11 General Counsel wishes to present at this time in your case-in-
12 chief?

13 MS. YASSERI: Yes, Your Honor. If we may, we'd like to go
14 over some of the subpoenaed requests, and just state on the
15 record that there were no responsive documents --

16 JUDGE SANDRON: Yes.

17 MS. YASSERI: -- to some of the -- some of the requests.

18 JUDGE SANDRON: All right. And -- and Mr. Hilgenfeld, if
19 you have any dispute over what she states, then please speak
20 up. Otherwise, we'll assume that she is correctly stating the
21 facts.

22 MR. HILGENFELD: Very well, Your Honor.

23 MS. YASSERI: The first request was through a subpoena
24 issued to Respondent Centerline. It's subpoena number B-1-
25 1H4BTZJ, subpoena request number 6, which reads, documents

1 showing revisions to the letter dated December 9, 2020, from
2 Jennifer Beckman to Sven Titland, with the subject "manning and
3 managerial oversight, ITT", admitted into evidence as GC
4 Exhibit 136.

5 A similar request was also included in the subpoena issued
6 to Respondent Harley Marine Financing on October 3, 2020. That
7 subpoena number is B-1-1H4IZJH, was request number 5 in that
8 subpoena. And it was also included in the subpoena issued to
9 Respondent Olympic Tug & Barge. That subpoena number is B-1-
10 1H4JS03. The General Counsel received no responsive documents
11 to these requests.

12 MR. HILGENFELD: Your Honor, we would state that General
13 Counsel did receive one responsive document as of January 29,
14 2021, letter from Matt Godden to Sven Titland.

15 JUDGE SANDRON: Do you want to check on -- on that, Ms.
16 Yasserri?

17 MS. YASSERI: I believe that document is in the record.
18 Our position would be that other than that document, we
19 received no other responsive documents.

20 MR. HILGENFELD: And we don't believe there are other --
21 that would be the only responsive document we're aware of, Your
22 Honor.

23 JUDGE SANDRON: All right. So okay.

24 MR. HILGENFELD: And that was produced.

25 JUDGE SANDRON: That -- that's on the record. Parties



1 agree as -- as Mr. Hilgenfeld modified it. The parties do
2 agree.

3 MS. YASSERI: The next request, Your Honor, is in the
4 subpoena issued to Centerline against subpoena B-1-1H4BTZJ.
5 It's request number 7. Documents showing revisions to the
6 letter dated December 9, 2020, from Jennifer Beckman to Brian
7 Vartan, with the subject "manning and managerial oversight,
8 ITT", admitted into evidence as GC Exhibit 135. Similar
9 request was issued to the subpoena to Westoil, which is
10 subpoena number B-1-1H4ITNJ. It's included in request number 6
11 in that subpoena. It was also included in the subpoena to
12 Respondent Harley Marine Financing. That subpoena number,
13 again, is B-1-1H4IZJH, and it was in response number 6 to that
14 subpoena. And there were no responsive documents to that
15 request, to our knowledge.

16 JUDGE SANDRON: Oh --

17 MR. HILGENFELD: Oh, I thought you wanted me not to
18 answer.

19 JUDGE SANDRON: Oh, no, no. Yeah.

20 MR. HILGENFELD: Yeah. None exist, Your Honor.

21 JUDGE SANDRON: If -- if -- if Mr. Hilgenfeld is in
22 agreement with what you're saying, he doesn't need to speak
23 out. If -- if there's anything with which he disagrees, then
24 he's going to put it on the record.

25 MS. YASSERI: Okay. The next request is request number 8

1 in the subpoena issued to Centerline, subpoena B-1-1H4BTZJ.
2 It's request number 8. Documents, including letters, emails or
3 other records showing that Olympic Tug & Barge obtained
4 approval from Harley Marine Financing and/or Centerline to
5 award, assign, or reassign work related to Glencore Ltd. to Leo
6 Marine during the period of December 9, 2020, to March 31,
7 2021. Similar request was included in the subpoena issued to
8 Harley Marine Financing, subpoena B-1-1H4IZJH, and request
9 number 7.

10 Similar request was issued to a subpoena to Respondent
11 Olympic Tug & Barge, subpoena number B-1-1H4JS03, and request
12 number 7. And it was also included in the subpoena request to
13 Respondent Leo Marine. That subpoena number is B-1-1H4K0GN.
14 It was in request number 2. We received no responsive
15 documents to those requests.

16 MR. HILGENFELD: And Your Honor, we believe the January
17 29, 2021 letter from Matt Godden to Sven Titland is responsive
18 to that request and it was provided. No other documents are
19 known to exist.

20 JUDGE SANDRON: You agree, Ms. Yasseri?

21 MS. YASSERI: We don't believe that letter would be
22 responsive to this request, because this talks about obtaining
23 approval.

24 JUDGE SANDRON: I see.

25 MS. YASSERI: And we don't review that letter in that way,



1 Your Honor.

2 JUDGE SANDRON: All right.

3 MS. YASSERI: So we would disagree with Mr. Hilgenfeld.

4 MR. HILGENFELD: But that's an argument issue. It was
5 produced, right?

6 JUDGE SANDRON: All right. Yeah.

7 MR. HILGENFELD: It was produced.

8 JUDGE SANDRON: Right. The parties' disagreement is on
9 the record.

10 MS. YASSERI: The next request, Your Honor, is in the
11 subpoena issued to Respondent Centerline, subpoena number B-1-
12 1H4BTZJ. It was request number 12, documents, including
13 letters, emails, or other records exchanged between or among
14 Centerline, Harley Marine Financing, or Westoil's management
15 officials and our supervisors about the decision to award,
16 assign, or reassign work performed from Minerva and/or
17 Peninsula from Olympic Tug & Barge to Westoil during the period
18 of December 9, 2020, to March 31, 2021.

19 Similar request was included in the subpoena issued to
20 Respondent Harley Marine Financing, subpoena number B-1-1H4IZJH
21 and request number 10. And it was also included in the
22 subpoena issued to Respondent Westoil, subpoena number B-1-1-
23 H4ITNJ and request number 7. We -- the General Counsel did not
24 receive any responsive documents to this request.

25 MR. HILGENFELD: And the Respondent's -- no responsive

1 documents exist. Not to get into argument, but we don't
2 believe this fact occurred.

3 JUDGE SANDRON: That what?

4 MR. HILGENFELD: We don't believe this fact occurred. So
5 no responsive documents exist.

6 MS. YASSERI: The next request, Your Honor, is in a -- in
7 the subpoena issued to Respondent Centerline, subpoena number
8 B-1-1-H4BTZJ, request number 14. Documents, including notices,
9 letters, emails, or other records provided to the
10 Inlandboatmen's Union of the Pacific, Harley Marine Financing,
11 and or Centerline pursuant to Article 3, conditions precedent,
12 Section 3.1(c), labor agreement matters of the asset, sale, and
13 purchase agreement dated May 14th, 2018, admitted into evidence
14 as Respondent's Exhibit 43 and/or pursuant to the collective
15 bargaining agreement between Westoil and the Inlandboatmen's
16 Union of the Pacific.

17 A similar request was included in the subpoena issued to
18 Respondent Harley Marine Financing, subpoena number S -- I'm
19 sorry -- B-1-1H41ZJH and request number 12. It was also
20 included in the subpoena issued to Westoil, subpoena number B-
21 1-1H4ITNJ and request number 8. What we received, Your Honor,
22 responsive to this request, were only Mr. Hilgenfeld's
23 bargaining notes, and that was it.

24 MR. HILGENFELD: Those would be the responsive --

25 JUDGE SANDRON: Okay.

1 MR. HILGENFELD: -- documents, Your Honor.

2 MS. YASSERI: The last four requests, Your Honor, are
3 included in the subpoena that was issued to Respondent Leo
4 Marine on July 1, 2022, subpoena number B-1-1GEP717, request
5 number 17. Documents including operational schedules showing
6 the performance of work out of Leo Marine's San Pedro facility
7 during the period of February 1, 2021, to February 17, 2021.
8 We received no responsive documents to that request.

9 Request number 20, documents reflecting the performance of
10 work by Leo Marine for Chevron Corporation during the period of
11 February 1, 2021, to February 17, 2021. We received no
12 responsive documents to that request.

13 MR. HILGENFELD: And Your Honor, with 17 and 20, the
14 Respondents would simply note the pay records were provided to
15 Counsel for this period of time that included periods where the
16 employees were paid for training in that -- in the L.A. area.
17 They also -- they also received all the barge work related to
18 that. We do not -- there are no documents that Chevron -- that
19 they performed Chevron -- work for Chevron during this period
20 of time. And there are no documents that Leo Marine performed
21 barge operations in L.A./Long Beach during February 1st to
22 February 17th.

23 JUDGE SANDRON: All right. As far as the documents that
24 Mr. Hilgenfeld states were produced, do you -- do you agree
25 that those came under the subpoena?

1 MS. YASSERI: I can confirm, Your Honor, that we did
2 receive payroll records, but I do not think they're responsive
3 to either request number 17 or number 20.

4 JUDGE SANDRON: All right.

5 MR. HILGENFELD: It just gets to how you're defining
6 performance of work and what constitutes work. Does work
7 constitute someone who's getting paid to be there, or does work
8 constitute --

9 JUDGE SANDRON: Right.

10 MR. HILGENFELD: -- getting out on the barge? We provided
11 all responsive documents, is what I would say.

12 JUDGE SANDRON: All right. And I -- there's a
13 disagreement on that, but -- and it's in the record.

14 MS. YASSERI: Okay. Thank you, Your Honor. Just to
15 confirm, the General Counsel did not receive any documents
16 reflecting that there was work actually performed at Leo
17 Marine's San Pedro facility during the period of time February
18 1, 2021, to February 17, 2021.

19 MR. HILGENFELD: And again, it's -- from the Respondent's
20 point of view, it's how you define work. Leo Marine did not
21 perform barge operations during that period of time. Leo
22 Marine did pay employees, and they did go through training
23 during that period of time. And those were provided.

24 JUDGE SANDRON: All right. I think that remains an area
25 in dispute.

1 MS. YASSERI: Yes, Your Honor. Moving on, Your Honor,
2 to -- we're still within that -- the subpoena issued to
3 Respondent Leo Marine. That was subpoena request B-1-1GEP717,
4 specifically request number 25. Documents reflecting that Leo
5 Marine used equipment in the Port of Los Angeles/Long Beach
6 that formally belonged to Starlight Marine Services,
7 Incorporated, during the period of February 1, 2021, to
8 February 17, 2021. We did not receive any responsive documents
9 to this request.

10 MR. HILGENFELD: We -- we produced all responsive
11 documents. But Leo Marine did not operate barge equipment
12 during that period of time, which is, I think, what the request
13 is really getting at. The use of -- the use of the word "used
14 any equipment that formally belonged to Starlight Marine", it
15 starts getting very, very broad. I -- I just don't understand,
16 to that extent. But to the extent we're talking about barge
17 logs, barge work, and work -- barge work performed by Leo
18 Marine in L.A./Long Beach, all -- there was -- none exists
19 during that period of time.

20 JUDGE SANDRON: Are you comfortable with that assertion,
21 Ms. Yasseri?

22 MS. YASSERI: I'm satisfied with that response, Your
23 Honor. Thank you. And lastly, request number 26 included in
24 the subpoena issued to Respondent Leo Marine, subpoena number
25 B-1-1GEP717, documents reflecting that Leo Marine serviced

1 former customers of Starlight Marine Services, Incorporated, in
2 the Port of Los Angeles/Long Beach during the period of
3 February 1, 2021, to February 17, 2021. The General Counsel
4 received no responsive documents to that request.

5 MR. HILGENFELD: None exist.

6 JUDGE SANDRON: Okay.

7 MS. YASSERI: Okay.

8 JUDGE SANDRON: Then that's in the record.

9 MS. YASSERI: Thank you, Your Honor. At this time, Your
10 Honor, the General Counsel seeks the admission of position
11 statements that were submitted by the Respondents during the
12 investigations of the cases at issue in the hearing.

13 JUDGE SANDRON: Do you -- do you have those?

14 MS. YASSERI: So there are a number of them, and I can go
15 through each of them sort of one by one. They've --

16 JUDGE SANDRON: Do you have -- do you have copies of those
17 now?

18 MS. YASSERI: Yes, we do.

19 JUDGE SANDRON: All right. Maybe you can -- are you
20 planning to offer all of them?

21 MS. YASSERI: My apologies, Your Honor. I couldn't hear.

22 JUDGE SANDRON: Oh. Are -- are you planning to offer all
23 of them?

24 MS. YASSERI: Not every single one, but a majority of the
25 position statements that were submitted during the

1 investigation and the supporting documents, as well as there is
2 one set where we've also included my email communications to
3 Mr. Hilgenfeld, because it puts the responsive PST in context.
4 Otherwise, it's not clear what the response is in the position
5 statement -- what inquiries they're responding to.

6 JUDGE SANDRON: Are you aware, Mr. Hilgenfeld, of which
7 position statements the General Counsel wants to offer?

8 MR. HILGENFELD: I'm not, Your Honor.

9 JUDGE SANDRON: Well, maybe -- why don't we go off the
10 record, and Ms. Yasseri, you can tell Mr. Hilgenfeld which ones
11 you're -- you're planning to offer.

12 MS. YASSERI: Okay.

13 JUDGE SANDRON: And then he can review them before we go
14 back on the record.

15 MS. YASSERI: Okay. Sure.

16 JUDGE SANDRON: Okay. Off the record.

17 (Off the record at 9:55 a.m.)

18 JUDGE SANDRON: Okay. Back on the record. We've had
19 extensive discussion of the General Counsel's wishing to offer
20 position statements that the various Respondents filed through
21 Mr. Hilgenfeld, as well as declarations that were referenced in
22 some of those position statements, as well as Ms. Yasseri's
23 email communications with Mr. Hilgenfeld that relate back to
24 one of the position statements, in terms of questions she asked
25 that led to that position statement. And that is General

1 Counsel Exhibit 121.

2 But I -- I think, at this point, I'll ask the parties to
3 state their respective positions on -- but the burden is on the
4 General Counsel to identify specific inconsistencies or claimed
5 inconsistencies or conflicts in the record before those
6 position statements are admitted. And I'll let the parties put
7 their positions on the record, and then I'll state what I
8 indicated off the record was my proposed ruling on their
9 admission.

10 So do you want to start, Ms. Yasseri? And also, I think
11 we'll -- we'll get on the record the -- the length of some of
12 these documents. But I think it's important for the record to
13 reflect how voluminous some of these documents are, especially
14 when there were attachments that were, apparently, hundreds of
15 pages. So do you want to start, Ms. Yasseri? Then we'll hear
16 from Mr. Hilgenfeld.

17 MS. YASSERI: Thank you, Your Honor. It's the General
18 Counsel's position that it's -- we do not have the burden to
19 specifically identify certain sections within each position
20 statement and identify the conflict in advance of seeking their
21 admission under the Federal Rules of Evidence. Again, we seek
22 admissions of these position statements as party admissions.
23 These were position statements that were submitted during the
24 investigation, and that is our position at this time.

25 Again, the exhibits that we seek admission of are

1 voluminous, so it would take us a number of hours to go through
2 each one and identify every single conflict that the General
3 Counsel may rely on. Certainly, Respondents will have the
4 opportunity to make any arguments that they'd like in a reply
5 brief. And we do not think that any forthcoming arguments
6 regarding due process have merit.

7 JUDGE SANDRON: And Mr. Hilgenfeld?

8 MR. HILGENFELD: Thank you, Your Honor. It is the
9 Respondent's position that the -- the position statements and
10 the attachments and the emails from Ms. Yasseri, they're all
11 hearsay. We acknowledge that under Board law, and they can be
12 seen as an admission of a party opponent. But we believe the
13 Raley's 348 NLRB 382 states, you know, there's no doubt that
14 assertion may be made by a party's attorney. And a position
15 statement submitted to the Board during the investigation of a
16 case can be received in the trial of the case as an admission
17 of the party, if those assertions are in conflict with the
18 party's current litigation position or the testimony of the
19 party's witness.

20 And it cites McKenzie Engineering 326 NLRB 50. It
21 requires, as all hearsay does, that the person putting forth
22 that evidence that there's an exception that applies. That
23 necessitates finding that there is some inconsistency. We
24 believe there's two -- there's three types of documents in this
25 piece. There's position statements, there's the declarations,

1 and then there's the emails from Ms. Yasserli.

2 The position statement, we believe there needs to be at
3 least some indication of either inconsistent position or
4 conflict with the fact that gives the Respondents sufficient
5 due process to respond, as there are a voluminous amount of
6 materials conducted here, to be able to fully respond and
7 provide testimony, because there are being declarations that
8 are being offered. Some of these witnesses have already
9 testified. General Counsel had the full opportunity to examine
10 those witnesses if there was any inconsistency with the
11 declaration. We don't want this to be an end around to avoid
12 cross-examination to provide Respondents a fair opportunity to
13 respond.

14 And then finally with Ms. Yasserli, the emails from Ms.
15 Yasserli, these are not admissions by a party opponent, merely
16 because they're acting to clarify or other reasons. They are
17 hearsay. And even under the Board's more lax standard, a party
18 cannot avoid hearsay by then strapping it onto some other
19 document that may or may not be admissible. So that would be
20 the Respondent's position. Thank you, Your Honor.

21 JUDGE SANDRON: And in an off-the-record discussion, I
22 understand that counsels are not aware of any Board precedent,
23 specifically addressing the issue of whether the General
24 Counsel has the burden of pointing out every alleged
25 inconsistency or contradiction in the position statement; is

1 that -- isn't that correct? I mean, if you -- I've asked if
2 either counsel has --

3 MR. HILGENFELD: You've asked. And directly with position
4 statements, I can't say we've researched that issue, Your
5 Honor. But we do believe these position statements are based
6 upon hearsay rules, and we do believe the hearsay rules require
7 some specificity in -- in indicating what is inconsistent.

8 JUDGE SANDRON: Well, I -- I agree the law is that the
9 statements, to be admissions, they have to be conflicting or
10 contradictory with the party's position. So I don't think
11 there's any dispute over that. It's a question of whether --
12 excuse me -- in view of the voluminous of the documents and --
13 and the great deal of time it would take necessary to go
14 through all the documents -- I note, for example, that in
15 General Counsel's Exhibit 115, there's a number of numerous
16 documents that were submitted -- 375 pages of -- of documents,
17 apparently, that, you know, it would take probably a day to go
18 through all these records.

19 But -- but I do think that in -- in order to comply with
20 the letter of the law regarding the cases that Mr. Hilgenfeld
21 and Ms. Yasseri have brought to my attention, including Raley's
22 that was just mentioned, that I will ask the General Counsel to
23 show, in each of the position statements, at -- at least one
24 conflict or inconsistency that's alleged, so that they would
25 then be admissible on that basis.

1 Now, as far as the -- I think the declarations, if they
2 are referenced in the position statement, then it's -- to have
3 a complete document, that they should be included. And as far
4 as the emails from Ms. Yasseri to Mr. Hilgenfeld, they were
5 predicates to the position statement of May 11, 2021. So in
6 order to have a complete record on those and the position
7 statement, they need to be in the record as well.

8 MR. HILGENFELD: Your Honor, can I make one additional
9 note?

10 JUDGE SANDRON: Yes.

11 MR. HILGENFELD: I -- I'd mention three pieces. I think
12 there's actually a fourth piece. I'm not -- the fourth piece
13 is the document production, which is really 115 and 121.

14 JUDGE SANDRON: Yes.

15 MR. HILGENFELD: I -- I don't see how the document
16 production has any inconsistency. In fact, if you look at 115,
17 most, if not all -- I -- I hesitate, because we have hundreds
18 of documents into the record. But most of these have already
19 been introduced into the record. So I don't see how any of
20 these document productions would show any inconsistency
21 whatsoever.

22 JUDGE SANDRON: Ms. Yasseri, have you -- I don't know if
23 you've had the opportunity to -- to go through all of the
24 documents. Have you been able to?

25 MS. YASSERI: I have not, Your Honor.

1 JUDGE SANDRON: Go to that point.

2 MS. YASSERI: I have not. That exhibit was -- was
3 included in our list, because it was an exhibit to a PST that
4 we are seeking admission of. So for completeness, we included
5 it on the list. But I'd have to go through the -- that -- the
6 document production that's included as part of that exhibit to
7 seek -- to point to specific inconsistencies, again, which our
8 position is we don't have that burden at this time.

9 JUDGE SANDRON: Well, I -- I think the only thing is that
10 I think what Mr. Hilgenfeld is -- is stating is that -- I think
11 there was an index -- is -- is that to the extent that many of
12 those documents have been admitted to the record, you -- you
13 may not need to submit them again, although determining that
14 may -- may take, you know, undue time. But how -- how do -- I
15 think you -- how are you going to -- planning to present these
16 documents? I'd like to have -- have a hard copy maybe of the
17 position statements and declarations. As far as the
18 attachments, I can get those after the court reporter, you
19 know, puts them into our system.

20 MS. YASSERI: Okay.

21 JUDGE SANDRON: And how are you planning to present them,
22 otherwise, by hard copy or hard or --

23 MS. YASSERI: I think we had made this inquiry during one
24 of our prior conference calls, and the parties informed us that
25 they would not want a physical copy because of the voluminous

1 nature. And so we had limited -- limited our printing
2 production to, I believe, three copies.

3 JUDGE SANDRON: And -- and how -- are you going to -- so
4 they'll be treated as regular documents?

5 MS. YASSERI: Right.

6 JUDGE SANDRON: Okay. And -- and Mr. Hilgenfeld already
7 has these documents, I assume?

8 MR. HILGENFELD: We -- we do have these documents, Your
9 Honor, but a standard part of due process is when a document is
10 being admitted, there's some relevancy asserted to that
11 document or something else. This is a document dump in the
12 guise of position statements. It doesn't go to
13 inconsistency --

14 JUDGE SANDRON: All right.

15 MR. HILGENFELD: -- on admission. It's just improper
16 under that standard.

17 JUDGE SANDRON: Well --

18 MR. HILGENFELD: It doesn't matter -- this -- this isn't a
19 complete investigation where we put in every document that's
20 been known to man. It has to have some relevancy to that
21 inconsistency.

22 JUDGE SANDRON: Right. I -- I realize that, but I -- I
23 think that we can leave it to the parties to argue, you know,
24 these points. The General Counsel can raise any alleged
25 inconsistencies or discrepancies. I think it is significant

1 that the Respondents' case has yet to begin, and the
2 Respondents will have an opportunity to present evidence. And
3 also, if the General Counsel does cite additional alleged
4 conflicts in her brief, then the Respondent will have an
5 opportunity to file a reply brief contesting those assertions.

6 MS. YASSERI: Your Honor, may I be heard just on one --

7 JUDGE SANDRON: Yes.

8 MS. YASSERI: -- one point? I think to sort of pick up on
9 what you had stated, putting the burden on the General Counsel
10 to identify the specific inconsistency at this time, prior to
11 Respondents putting on their case, I don't think we have the
12 burden to do that. And quite frankly, it seems that it would
13 remove our ability to rely on these position statements after
14 the record closes, because they haven't had the ability to put
15 on any witnesses at this time. So if we go through and
16 identify what we see as an inconsistency before they put on any
17 evidence, I -- I -- I really don't --

18 JUDGE SANDRON: Well --

19 MS. YASSERI: -- see how that would be a requirement put
20 upon us.

21 JUDGE SANDRON: I think Mr. Hilgenfeld wants to say
22 something. But perhaps, it's premature to be offering these --
23 these documents right now. If -- if you -- if you choose to
24 hold off until after the Respondents' case, you can present any
25 of these documents that you consider to show -- I mean, it's up

1 to you. But in other words, now you're saying that, in a way,
2 you want to wait until they presented their case. In other
3 words, you can't have it both ways.

4 MS. YASSERI: I understand. I -- I -- thank you. I think
5 if -- if it's Your Honor's ruling to require that the General
6 Counsel point to an inconsistency at this time, we would prefer
7 to wait --

8 JUDGE SANDRON: All right.

9 MS. YASSERI: -- and seek admission of these documents
10 after Respondent puts on his case.

11 JUDGE SANDRON: All right. I think that might be the --
12 the best way to go. And I think it -- it may be that we don't
13 know what the Respondents' witnesses will say. It might be
14 that you determine that some of the -- you know, what might be
15 inconsistencies are -- are not, or you don't want to rely on
16 them. So that -- that might be the way to go. But I don't
17 think we've -- I -- I think, for the record, I don't know if
18 we've -- I think we have them marked. And I think just for
19 the -- and I think you've said what each document is on -- on
20 the record.

21 MS. YASSERI: I have not, Your Honor.

22 JUDGE SANDRON: Well, you gave some of the -- all right.
23 Well, why don't we just take care of that now, and then we'll
24 put this in abeyance. So do you want to just state what each
25 of the exhibits is and -- and then they're marked for

1 identification, where they won't be admitted at -- at this
2 point?

3 MS. YASSERI: I'd be happy to do that.

4 JUDGE SANDRON: Yes, go ahead.

5 MS. YASSERI: Okay. GC Exhibit 111, it's an April 19,
6 2021 position statement from Centerline. GC Exhibit 112 April
7 19, 2021 position Statement from Leo Marine Services.

8 JUDGE SANDRON: Oh, excuse me. Could you state the number
9 of pages?

10 MS. YASSERI: Oh, sure.

11 JUDGE SANDRON: Maybe -- I think that would be helpful.
12 So the record can --

13 MS. YASSERI: Okay.

14 JUDGE SANDRON: -- reflect --

15 MS. YASSERI: Okay.

16 JUDGE SANDRON: As I said off the record, we're not
17 dealing with a one- or two-page --

18 MR. HILGENFELD: Your Honor, I got to step out just one
19 second.

20 JUDGE SANDRON: Is this sustained?

21 MR. HILGENFELD: Just one second. I apologize. Mr.
22 Foreman can --

23 JUDGE SANDRON: Okay.

24 MR. HILGENFELD: -- keep going for me.

25 MR. FOREMAN: Okay.



1 MS. YASSERI: Okay. Going back to GC Exhibit 111, Your
2 Honor, it consists of 24 pages. GC Exhibit 112 -- I'll repeat
3 again just for clarity -- it's an April 19, 2021 position
4 statement from Leo Marine Services, and it consists of 13
5 pages. GC Exhibit 113, April 19, 2021 position statement from
6 Olympic Tug & Barge, consists of 16 pages. GC Exhibit 114,
7 April 19, 2021, position statement from Westoil Marine
8 Services, consisting of 14 pages. GC Exhibit 115, they were
9 exhibits submitted on April 19, 2021, in support of GC Exhibits
10 111 through 114. The exhibits consist of 375 pages. GC
11 Exhibit 116, April 19, 2021, declaration from Bowman Harvey.
12 GC Exhibit 117, declaration submitted on April 19, 2021, from
13 Brian Vartan. GC Exhibit 118, declaration submitted on April
14 19, 2021, from Marshall Novak. GC Exhibit 119, declaration
15 submitted on April 19, 2021 from Matthew Godden. GC Exhibit
16 120, April 19, 2021, declaration from Sven Titland.

17 JUDGE SANDRON: And who was the first person you
18 mentioned, 116?

19 MS. YASSERI: Bowman Harvey, B-O-W-M-A-N, last name
20 Harvey, H-A-R-V-E-Y.

21 JUDGE SANDRON: Okay.

22 MS. YASSERI: We have GC Exhibit 121. It's a May 11, 2021
23 position statement from Leo Marine, consisting of 508 pages.
24 GC Exhibit 122, July 23rd, 2021, position statement from Leo
25 Marine, consisting of 30 pages. GC Exhibit 124, January 10th

1 position statement from Westoil Marine Services, consisting of
2 eight pages.

3 JUDGE SANDRON: What about 123, that was?

4 MS. YASSERI: I'm sorry, Your Honor. About 124?

5 JUDGE SANDRON: Let's see. You mentioned 122.

6 MS. YASSERI: Yes.

7 JUDGE SANDRON: And 123 was from -- was Centerline?

8 MS. YASSERI: Yes.

9 JUDGE SANDRON: Okay. And then 124 is Westoil Marine?

10 MS. YASSERI: Yes, Your Honor.

11 JUDGE SANDRON: Okay.

12 MS. YASSERI: GC Exhibit 125, it's a January 8, 2022
13 declaration from Brian Vartan, submitted in support of a
14 forthcoming exhibit, Your Honor. That would be GC Exhibit 189.

15 JUDGE SANDRON: Okay. And that's GC 125 relates to 189?

16 MS. YASSERI: Yes.

17 JUDGE SANDRON: Okay.

18 MS. YASSERI: GC Exhibit 126, declaration submitted on
19 January 8, 2022, from Doug Houghton. GC Exhibit 127,
20 declaration submitted on January 9, 2022, from Jennifer
21 Beckman. GC Exhibit 128, supplemental declaration submitted on
22 January 10, 2022, from Matt Godden.

23 JUDGE SANDRON: Okay. And which position statements --

24 MS. YASSERI: I believe GC Exhibits 125 through 128 were
25 submitted in support of GC Exhibit 189.

1 JUDGE SANDRON: Oh, all of them. I see.

2 MS. YASSERI: I can talk about that exhibit. GC Exhibit
3 189 is a January --

4 JUDGE SANDRON: Oh.

5 MS. YASSERI: -- 10th position statement -- sorry --
6 January 10 2022, position statement from Harley Marine
7 Financing. We also had GC Exhibit 129. It's a January 19,
8 2022 position statement from Centerline.

9 JUDGE SANDRON: And how many pages is that one?

10 MS. YASSERI: That's a single-page document.

11 JUDGE SANDRON: Oh, just one?

12 MS. YASSERI: And GC Exhibit 189, Your Honor, is 110
13 pages. And then we have GC Exhibit 202, April 22, 2021,
14 request for evidence, email communication from me regarding
15 Leo -- the May 11, 2021 Leo Marine position statement. GC
16 Exhibit 203, April 27, 2021, request for evidence, email
17 communication from me as the investigating Board agent
18 regarding the May 11, 2021 Leo Marine position statement. GC
19 Exhibit 204, April 29, 2021, request for evidence, email
20 communication from me as the investigating Board agent
21 regarding the May 11, 2021 Leo Marine position statement. And
22 GC Exhibit 205, which is the May 6, 2021, request for evidence,
23 email communication from me as the investigating Board agent
24 regarding the May 11, 2021 Leo Marine position statement.

25 JUDGE SANDRON: All right. All of those documents have

1 been marked accordingly, and they will be held in abeyance at
2 this time. Is there anything else that either counsel wishes
3 to say about these documents before we move on to other
4 matters?

5 MS. YASSERI: Not from the General Counsel, Your Honor.

6 JUDGE SANDRON: All right.

7 MR. FOREMAN: Nothing from the Respondent, Your Honor.

8 JUDGE SANDRON: So I think as I understand it then, Ms.
9 Yasseri, you -- you -- General Counsel, rests subject to being
10 able to put on rebuttal evidence, including the submission of
11 whatever of these position statements, declarations, emails
12 that -- that you wish to put in the record?

13 MS. YASSERI: Yes, Your Honor. We have just one other
14 item that we'd like to -- to state on the record, that the
15 General Counsel will be withdrawing paragraphs 14 and 15, A and
16 B of the consolidated complaint.

17 JUDGE SANDRON: Okay. They are considered then withdrawn
18 and no longer under consideration.

19 MS. YASSERI: And lastly, as you stated, we are expressly
20 reserving the right to present rebuttal evidence if necessary,
21 following the Respondent's case and address the matter with
22 respect to the position changes that have been put in in
23 advance. And with that said, Your Honor, the General Counsel
24 rests.

25 JUDGE SANDRON: I don't think there's any representatives

1 from the IBU, who are present today. We have Mr.
2 Wojciechowski. DO you have any witnesses or other evidence
3 you'd like to put in the record before we turn to the
4 Respondent's case?

5 MR. WOJCIECHOWSKI: No. Not at this time. Thank you,
6 Your Honor.

7 JUDGE SANDRON: Okay. Let's see. It's now about 11:20, I
8 don't know if Mr. Hilgenfeld, I assume you -- you would have
9 your first witness available?

10 MR. HILGENFELD: We do, Your Honor. And we're fine going
11 forward and stopping direct for lunch.

12 JUDGE SANDRON: All right. Why don't we just take a few
13 minutes now, and say about ten minutes, then we'll -- we'll
14 start with your case?

15 MR. HILGENFELD: Very good. Thank you, Your Honor.

16 JUDGE SANDRON: Okay. Off the record.

17 (Off the record at 11:19 a.m.)

18 JUDGE SANDRON: Mr. Hilgenfeld, do you have your first
19 witness?

20 MR. HILGENFELD: We do, Your Honor. The Respondents would
21 call Jenn Beckman.

22 JUDGE SANDRON: Hi, Ms. -- Ms. Beckman. If you'll please
23 come up, I'll -- I'll swear you in.

24 I'm Judge Sandron. I see you have your hand up already.
25 That's fine.

1 Whereupon,

2 **JENNIFER KAREN BECKMAN**

3 having been duly sworn, was called as a witness herein and was
4 examined and testified as follows:

5 JUDGE SANDRON: If you'll please be seated over here. If
6 you could state and spell your full and correct legal name and
7 provide us with an address, either work or residence.

8 THE WITNESS: Jennifer Karen Beckman, J-E-N-N-I-F-E-R.
9 Karen, K-A-R-E-N. Beckman, B-E-C-K-M-A-N.

10 JUDGE SANDRON: Thank you. And try to relax as best as
11 you can.

12 THE WITNESS: My address is 227 South Irena, Unit 5,
13 Redondo Beach, California, 90277.

14 JUDGE SANDRON: Thank you.

15 MR. HILGENFELD: Thank you, Your Honor.

16 **DIRECT EXAMINATION**

17 Q BY MR. HILGENFELD: Ms. Beckman, I'm going to ask you to
18 speak up.

19 A Okay.

20 Q Are you currently employed?

21 A I am.

22 Q And where you employed?

23 A Centerline Logistics.

24 Q And what is your position with Centerline Logistics?

25 A Sales and chartering manager.



1 Q And how long have you held that position?

2 A Since 2019.

3 Q And where -- what are your job duties in that position?

4 A Mainly, interacting with customers.

5 Q And what do you mean by interacting with customers?

6 A They come to me with requirements for moving cargo or
7 wanting to book a -- a barge for a job. So I -- I work with
8 customers to fulfill their needs.

9 Q We've had some conversation during the hearing regarding a
10 few terms. I'm just going to ask you to describe how you would
11 understand those terms.

12 A Um-hum.

13 Q Are you familiar with the term a short -- a short-term
14 time charter?

15 A Yes.

16 Q How do you understand that -- what do you understand a
17 short-term time charter to be?

18 A I would categorize that as anything six months or less.

19 Q Are you familiar with the term a long-term time charter?

20 A Yes.

21 Q And what does that long-term time charter?

22 A I would categorize that as anything six months or longer.

23 Q Are you familiar with the term a contract of affreightment
24 or a COA?

25 A Yes.



1 Q And what is a contract of affreightment?

2 A It's an agreement to move product for customers, but not
3 on a certain piece of equipment.

4 Q And when you say product of customers, what type of
5 product are you talking about?

6 A Petroleum products.

7 Q How does a contract of affreightment differ from a time
8 charter? What is your understanding?

9 A A time charter is when a customer has full access and
10 utilization of a unit. So if they took a unit on time charter
11 for a year, they have that exact unit to do with as they wish.
12 A COA is when they have certain amount of barrels to be moved
13 in a time period and we agree to do that. But at equipment --
14 at our discretion.

15 Q And when you say unit, what do you mean?

16 A A tug and barge unit?

17 Q Are you familiar with the term spot charter?

18 A Yes.

19 Q How do you -- what do you understand a spot charter to be?

20 A Just a single movement. So moving cargo from point A to
21 point B, just a single job.

22 Q And when you mean cargo, what do you mean?

23 A Petroleum products.

24 Q And when you talk about chartering, what is chartering,
25 meaning your world?

1 A Entering into an agreement with a customer to use a piece
2 of equipment.

3 Q And who would be the customers in the LA/Long Beach area
4 that you may charter pieces of equipment or work for?

5 A Oh, there's a lot of them. Chevron, Valero, Phillips 66,
6 PBF, Glencore. I'm sure there's more.

7 Q When you say P66, is that Phillips 66?

8 A Yes.

9 Q What company enters into those chartering agreements with
10 those customers?

11 A Harley Marine Financing.

12 Q What is your understanding of Harley Marine Financing's
13 relationship with Centerline?

14 A Centerline acts as a management company to Harley Marine
15 Financing.

16 Q Do you work for Harley Marine Financing?

17 A No.

18 Q Do you know who owns the tugs operated by Centerline's
19 operating companies, such as Westoil?

20 A Harley Marine financing.

21 Q Do you know who owns the barges that are operated by
22 Centerline's operating companies, such as Westoil?

23 A Harley Marine Financing?

24 Q Are you familiar with the term bareboat charter?

25 A I am.



1 Q What is a bareboat charter?

2 A It's essentially a charter of a piece of equipment, but
3 without crew members, just the piece of equipment, not a
4 service.

5 Q Do Centerline's differing operating companies, such as
6 Westoil and Leo Marine enter into bareboat charters to operate
7 equipment?

8 A Yes.

9 Q Is that true for both tugs and barges?

10 A Yes.

11 Q What is the area of geography that you perform sales and
12 chartering for Centerline?

13 A Primarily the U.S. West Coast.

14 Q Does Centerline itself perform any of the work that's
15 being chartered?

16 A No.

17 Q Who performs that work?

18 A The various operating companies.

19 Q What types of services are chartered?

20 A We do terminal transportation, we do bunkering, we do
21 lightering, we do miscellaneous tows.

22 Q Do you do ship assists in California?

23 A We do not.

24 Q We've heard bunkering. What do you understand the
25 bunkering to be?



- 1 A It's the delivering a fuel to a vessel.
- 2 Q From the tanker barge?
- 3 A Yes.
- 4 Q What is a terminal transfer?
- 5 A It's just moving product from one terminal to another.
- 6 Q And that product is petroleum?
- 7 A Yes.
- 8 Q What do you understand the lightering to be?
- 9 A That is moving cargo from a vessel to a barge.
- 10 Q So instead of going from the barge to the vessel, it goes
- 11 from the vessel to the barge?
- 12 A Correct. It's a little bit different. Lightering is the
- 13 actual cargo that say a tanker would be taking and bunkering is
- 14 essentially the refueling. So it's not cargo to be moved.
- 15 Bunkering is cargo to be burned.
- 16 Q Thank you. Do you negotiate any of the terms between the
- 17 petroleum customers that you referenced in Harley Marine
- 18 Financing?
- 19 A Yes. With -- with the help of other employees, yes.
- 20 Q Do you negotiate any of the terms related to Glencore?
- 21 Are you familiar with the Glencore contract in Southern
- 22 California?
- 23 A I'm -- I'm familiar that we have one, yes.
- 24 Q Did you negotiate any of the terms related to the Glencore
- 25 contract in Southern California?

1 A I did not.

2 Q Do you know what kind of contract the Glencore contract is
3 in Southern California?

4 A It's a COA agreement.

5 Q And COA would stand for?

6 A Contract of affreightment.

7 Q Do you know who negotiated the contracts with Glencore in
8 Southern California?

9 A Doug Houghton.

10 Q Do you know what company negotiated the contract for
11 Southern California?

12 A Harley Marine financing.

13 Q Did you play any role in those negotiations?

14 A I did not.

15 Q In -- I'm going to change your attention a little bit
16 here, Ms. Beckman. In 2020, are you familiar with an
17 invitation to tender bid presented to operating companies for
18 Centerline?

19 A Yes.

20 Q And did you play a role in that?

21 A Yes.

22 Q What was your role?

23 A I prepared the RFP and sent it to the bidders.

24 Q And when you say RFP, what do you mean?

25 A Sorry. Request for a proposal.



1 Q Is there any difference between a request for a proposal
2 and an invitation to tender bid?

3 A No.

4 Q So if I use RFP, do you understand I'm also referring to
5 an ITT?

6 A Yes.

7 Q Did you have an understanding of what the purpose of that
8 bid process was?

9 A I was just doing it at the direction of Matt Godden, but I
10 am under the impression it was to evaluate costs in the ports
11 that we were bidding.

12 Q So I guess who asked you to be involved in this bid
13 process?

14 A Matt Godden.

15 Q Did anyone else ask you to be involved in this bid
16 process?

17 A No.

18 Q Do you remember when Mr. Godden came to you regarding this
19 process?

20 A I believe it was early October.

21 Q Do you -- early October what year?

22 A Sorry. 2020.

23 Q Do you recall in what form Mr. Godden spoke to you? Was
24 it phone, email, Zoom, in-person?

25 A It would have either been a phone call or a Zoom.

1 Q Okay. To your best of your memory. What did Mr. Godden
2 say in that conversation?

3 A He asked me to prepare an RFP and with detailing out what
4 pieces of equipment we were looking to be crude, the historical
5 volumes of work in the certain ports, and to send it to the
6 managers of different operating companies to bid on crewing the
7 equipment in the RFP.

8 Q Did you did Mr. Gordon identify what ports were going to
9 be part of the RFP process?

10 A In the RFP or bidding on it?

11 Q On the bid process?

12 A Yes.

13 Q And what ports were those?

14 A The -- the ports that we're going to be bidding on were
15 San Francisco, LA/Long Beach and the East Coast, so that's New
16 York and Philadelphia.

17 Q Did you have an understanding of why those ports were
18 included?

19 A I do not.

20 Q When did you -- what did you say to Mr. Godden during that
21 conversation?

22 A I asked him what information he would like included. I
23 asked him what ports he would like it to be sent to. And then
24 I went to work on a draft.

25 Q Okay. Do you recall anything more about that

1 conversation?

2 A I don't think so.

3 Q And approximately how long did that conversation take?

4 A It was probably 20 minutes.

5 Q And what did you do next regarding the bid process?

6 A I got a draft -- I made a draft of all the items he had
7 asked me to include.

8 Q Had you ever done an RFP bid process before?

9 A No.

10 Q And what was involved in getting the draft together to put
11 together for the bid process?

12 A I made a cover sheet explaining to the bidders what we
13 were looking for. I got all the particulars of all the
14 equipment in each area together, the historical volumes and the
15 historical movements in each area, and packaged it together.

16 Q How long did that process take?

17 A Probably about two weeks.

18 Q But did anyone else -- was anyone else involved in that
19 draft process?

20 A No.

21 Q Aside from Mr. Godden, did you talk to anyone else about
22 that draft process?

23 A No.

24 Q Did you -- I said talk to, did you communicate with anyone
25 else about that draft process?

1 A No. Only -- only Mr. Godden.

2 Q Did you end up sharing that draft with anyone?

3 A Only Mr. Godden.

4 Q And Ms. Beckman, I'm going to have you turn your attention
5 to one of the binders there. It should be zero. It's for
6 Respondent Exhibit 15. There should be a binder that goes, I
7 think, 1 day 38 or something like that.

8 MR. HILGENFELD: May I approach, Your Honor?

9 JUDGE SANDRON: Yes.

10 A Sorry.

11 Q BY MR. HILGENFELD: No, no, no. You're fine.

12 MR. RIMBACH: Chris, we don't have a copy either.

13 MR. HILGENFELD: We distributed it during the hearing
14 before. We gave you all these copies before.

15 MR. RIMBACH: I don't believe we have these.

16 MR. HILGENFELD: Okay. We gave you a whole stack of
17 things before that we were going to be going into when we were
18 here last time.

19 MR. RIMBACH: Do you have all the documents in here,
20 right?

21 MS. YASSERI: I don't think so.

22 MR. RIMBACH: Okay.

23 MS. YASSERI: Because we don't even have it on our list as
24 an identified exhibit.

25 MR. HILGENFELD: Oh, okay.

1 MS. YASSERI: Yeah.

2 MR. HILGENFELD: I apologize. Oh, it's right there.

3 MR. RIMBACH: I apologize.

4 Q BY MR. HILGENFELD: Ms. Godden, do you recognize -- Ms.
5 Godden -- good Lord. Hi. Alzheimer's is going to be quick and
6 dirty for me. Ms. Beckman, at least I didn't call you Brian
7 Vartan. Poor John Skow had to deal with that all last week.

8 Ms. Beckman, do you recognize Respondent's Exhibit 15?

9 A I do.

10 Q And what is Respondent's Exhibit 15?

11 A It's the draft that I sent to Matt to review.

12 Q And I'm going to have you take a moment to look at this.
13 It looks like there's attachment. Are you familiar if this is
14 the draft that you sent to Mr. Godden?

15 A Yes, it is.

16 Q Who were you intending to send the RFP to?

17 A To various Centerline operating companies.

18 Q And which Centerline operating companies are those?

19 A We sent them to Millennium, Westoil, Harley Marine New
20 York, Harley Marine Gulf and Olympic Tug & Barge.

21 Q On the front page of this email -- I guess, did you decide
22 what companies to send them to?

23 A No.

24 Q And it says Harley Marine Gulf, Matt Hammond/Dylan Galm;
25 do you see that?

1 A Yes.

2 Q What is meant when that --

3 JUDGE SANDRON: Can you spell that name? I don't know if
4 we have that one?

5 MR. HILGENFELD: Oh, certainly. Hammond is H-A-M-M-O-N-D.
6 Dylan Galm is D-Y-L-A-N G-A-L-M.

7 Q BY MR. HILGENFELD: What is meant by that first bullet
8 point?

9 A Just who specifically would be receiving it on behalf of
10 Harley Marine Gulf?

11 Q Who is Mr. Hammond?

12 A He was a manager at Harley Marine Gulf at the time.

13 Q Who is Mr. Galm?

14 A He did chartering for -- for the area at the time.

15 Q Why was Mr. Galm included?

16 A I'm not really sure why. Honestly, I thought he could
17 just help Matt Hammond complete it.

18 JUDGE SANDRON: So you were the one who suggested these
19 people as contact points?

20 THE WITNESS: I was.

21 JUDGE SANDRON: Thank you.

22 Q BY MR. HILGENFELD: On the second point, you have Westoil
23 Marine Services, who is Brian Vartan?

24 A A manager at Westoil at the time.

25 Q Why did you select Brian Vartan for Westoil?

1 A He would have been the most appropriate person to do it.

2 Q The next point's Millennium Maritime. Who's Matt
3 Hathaway?

4 A He was a manager at Millennium at the time.

5 Q Why did you select Mr. Hathaway?

6 A Because he was the most appropriate person to do it for
7 Millennium.

8 Q The next bullet point, you have Olympic Tug & Barge. Who
9 is Sven Titland?

10 A He's the general manager of Olympic Tug & Barge.

11 Q Why did you send this to Mr. Titland?

12 A He was the most appropriate person to -- to complete the
13 RFP.

14 Q The next one, you have Harley Marine New York. Who is
15 Brian Moore?

16 A He was the director of the East Coast operation at the
17 time.

18 JUDGE SANDRON: Do you want to just spell his last name
19 for the record?

20 MR. HILGENFELD: Certainly.

21 JUDGE SANDRON: Actually, both names to be safe.

22 MR. HILGENFELD: Vartan is V-A-R-T-A-N. Hathaway is
23 H-A-T-H-A-W-A-Y. Titland is T-I-T-L-A-N-D. Moore is
24 M-O-O-R-E. And then Galm is G-A-L-M.

25 JUDGE SANDRON: Thank you.



1 Q BY MR. HILGENFELD: And I apologize. Who is Mr. Moore?

2 A He was the director of the East Coast operation at the
3 time.

4 Q And why did you select Mr. Moore in this regard?

5 A Mr. Moore would have been the most appropriate person
6 to -- to complete the RFP. I just thought Dylan could assist
7 him.

8 Q And then let's go through this Exhibit. I'm going to turn
9 your attention to page 4, letter of invitation. Do you see
10 that?

11 A I do.

12 Q Who drafted the letter of invitation?

13 A I did.

14 Q What was the purpose of drafting a letter of invitation?

15 A Just to give the bidders an idea of what we were looking
16 for and important dates that they needed to submit certain
17 items by.

18 Q The next page on page 5, is titled, instruction to
19 bidders; do you see that?

20 A I do.

21 Q What was the purpose of the instruction to bidders?

22 A Just to give them a -- an -- a timeline of when each
23 attachment was due by.

24 Q And what was due -- the first one has October 16th letter
25 of acknowledgment. Is the letter of acknowledgment in the bid

1 form?

2 A It is. It's page 13. Oh, I'm sorry, not 13. I'm sorry.
3 It's page 12.

4 Q And you've identified 1700 PST. What is 1700 PST?

5 A 5:00 Pacific Standard Time.

6 Q For on October 16th, 2020?

7 A Correct.

8 Q Why did you select that date and time?

9 A I just wanted to give bidders a couple days to acknowledge
10 that they had received the RFP and to give us an idea of what
11 areas they'd be bidding on. So it's just a -- I just picked it
12 because it was a couple of days past when the RFP was initially
13 sent out.

14 Q And then the next is a bid submission letter. Is the
15 mission letter in the packet?

16 A Yes.

17 Q And what page is the bid submission letter on?

18 A That's page 13.

19 Q And then it lists the schedule of rates. Is the schedule
20 of rates in the packet?

21 A Yes.

22 Q And which page is the schedule of rates?

23 A Its pages 15 through 18.

24 Q And then the next attachment is qualifications or
25 exceptions to scope of work. Was that listed?



1 A Yes.

2 Q And where is that listed?

3 A That is page 19.

4 Q The -- you've listed a date of October 23rd, 2020, at 5
5 p.m. on PST. Why was October 23rd selected?

6 A It just seemed like an adequate amount of time for bidders
7 to get to the -- the numbers in.

8 Q Were bids accept -- were bids eventually accepted or
9 allowed to be revised after October 23rd, 2020?

10 A Yes.

11 Q And why was that?

12 A I -- after the bids for submitted on the 23rd, I had quite
13 a few clarifying questions with bidders. And then past that,
14 everyone was given the opportunity one more time to revise
15 their bids.

16 Q The next page is page 6, the company overview. What was
17 the purpose of the company overview?

18 A It's just a description of Centerline. And then mainly,
19 the reason for the overview was to list out the equipment that
20 we had in each area that we were going asking for bids for.

21 Q Page 9 identifies a scope of work. What was the purpose
22 of the scope of work?

23 A It was detailing out what we were looking for in each
24 area.

25 Q And when you talk about -- I noticed you have Los



1 Angeles/Long Beach barges and Los Angeles/Long Beach tugs in
2 paragraphs one and two; do you see that?

3 A I do.

4 Q Why were the tugs and barges separated in Los Angeles/Long
5 Beach?

6 A At the time that this went out, they were operated by two
7 separate companies.

8 Q What companies were those?

9 A Millennium and Westoil.

10 Q And who provided the barge work in Los Angeles/Long Beach
11 at that time?

12 A Westoil.

13 Q And who provided the tug work in Los Angeles/Long Beach at
14 that time?

15 A Millennium.

16 Q I want to turn your attention to page 10. What was the
17 purpose of the historical volume of work?

18 A To give bidders an idea of how busy each port was.

19 Q And how did you find this information?

20 A We have -- we have records of it online through our
21 internal systems, and I looked it up.

22 Q Is this information that you put together for this sheet?

23 A It is.

24 Q And when it talks about total barrels, what is meant in
25 that column?

1 A That's the amount of cargo that was moved that month.

2 Q And when it talks about total jobs, what is that -- how is
3 that -- what is meant by that?

4 A That's deliveries. So yeah, a single job is a single
5 delivery, is a single movement, but that can vary in amount of
6 barrels per delivery.

7 Q Is Exhibit -- well, I guess I'll turn attention to page
8 13, the bid submission letter. What was the purpose of the bid
9 submission letter?

10 A The purpose was -- it was kind of a cover page for the
11 submissions, and then it had some more terms that we wanted,
12 like, the bid would be valid for 180 days from when it was
13 turned in and then to acknowledge any clarifying -- any, you
14 know, like amendments that went out.

15 Q Page 15 is the schedule of rates. And the first is for --
16 well, first off, LA/LB barges, is that LA -- Los Angeles/Long
17 Beach?

18 A Correct.

19 Q What was the purpose of the schedule of rates?

20 A It was just an area for the bidders to put in their
21 numbers -- their bids for that -- for manning the barges in LA.

22 Q And what is a barge daily?

23 A It's the amount per day to crew a single barge.

24 Q And then why was six barges identified for Los
25 Angeles/Long Beach?

1 A That's the number that was in the area at the time.

2 Q Next page, on page 16, it has five LA/Long Beach tugs.
3 Why is the number five identified?

4 A There was five tugs in LA/Long Beach at the time.

5 Q Next page, SF, does that stand for San Francisco?

6 A Yes.

7 Q And it identifies one barge and one tug. Why was that
8 included at that time?

9 A There was a single tug in a single barge in the area at
10 the time.

11 Q Performing bunkering work?

12 A Correct.

13 Q Was this RFP limited strictly to bunkering or petroleum
14 transportation movement?

15 A No.

16 Q Attachment 7 is Philly/New York. And it has the number of
17 barges 12 and the number of tugs 10. Why were those barges and
18 tugs selected?

19 A Those were the total number of barges and tugs in the area
20 at -- at the time.

21 Q The -- page 19, last page. What was the purpose of the
22 qualifications or exceptions to the scope of work?

23 A This was just kind of a free area for bidders to tell us
24 why they were capable of doing the work or if they needed to
25 deviate from the crewing or how they planned to crew it. Just

1 any additional information they wanted to provide.

2 Q Ms. Beckman, is Respondent's Exhibit 15 a true correct
3 copy of the email that you sent to Matt Godden on October 13th?

4 A Yes.

5 Q Is this document kept in the ordinary course of business?

6 A Yes.

7 MR. HILGENFELD: At this time, we'd moved to admit
8 Respondent's Exhibit 15.

9 JUDGE SANDRON: I want to ask you. The -- was this sent
10 out, where it says letter of invitation and then all these
11 attachments, was that sent out as a packet to the -- the
12 different people?

13 THE WITNESS: It was.

14 JUDGE SANDRON: And -- and was that sent by email?

15 THE WITNESS: It was.

16 JUDGE SANDRON: And on the date of October 14th, if you
17 recall?

18 THE WITNESS: Yes. As I recall, yes.

19 JUDGE SANDRON: Is there any further questions or
20 objections?

21 MR. RIMBACH: Yes. I'd just like to request a copy of the
22 Excel spreadsheet that's attached to this document in original
23 form.

24 MR. HILGENFELD: We've provided that.

25 MR. RIMBACH: Do you have the Bates number?



1 MR. HILGENFELD: We don't have the Bates number?

2 MR. RIMBACH: No.

3 MR. HILGENFELD: We don't keep the Bates number that way
4 and the Excel sheets don't move that way. But we did provide
5 all the Excel sheet related to the bidding process.

6 JUDGE SANDRON: Do you want a moment? Can you locate it
7 fairly quickly?

8 MR. RIMBACH: I can check on the next break, Your Honor.

9 JUDGE SANDRON: All right.

10 MR. RIMBACH: No objection to this exhibit.

11 JUDGE SANDRON: Respondent's Exhibit 15 is received.

12 **(Respondent Exhibit Number 15 Received into Evidence)**

13 Q BY MR. HILGENFELD: Ms. Beckman, did Mr. Godden make any
14 changes to this document?

15 A He had one clarifying question, but ultimately we didn't
16 make any changes. No.

17 Q Do you recall what his clarifying question was?

18 A It was something in relation to how we were bidding -- how
19 we were proposing to bid on the tug work in LA, because our
20 customers were paid -- our customers paid us hourly. But I
21 told him that we were bidding the -- the boat for the whole
22 day, so I didn't think that would be appropriate to bid it
23 hourly, which he agreed. So we kept it as is.

24 Q Did the draft proposals go out to each of these
25 individuals as listed in this document?



1 A Yes.

2 Q Did you make any changes to the document that went out to
3 these individuals?

4 A No.

5 Q Did you include anyone beyond who is included in
6 Respondent's Exhibit 15?

7 A No.

8 Q I'm going to next turn your attention to Respondent's
9 Exhibit 17. Ms. Beckman, do you recognize Respondent's Exhibit
10 17?

11 A I do.

12 Q And what is Respondent's Exhibit 17?

13 A This is the ITT that went out all the bidders.

14 JUDGE SANDRON: In -- were there any changes in this --

15 THE WITNESS: There -- there were not.

16 JUDGE SANDRON: -- Exhibit 15.

17 THE WITNESS: There were not.

18 Q BY MR. HILGENFELD: And I probably should have asked
19 that -- this question before, but you had talked about Los
20 Angeles/Long Beach barge and tug separations being separated.
21 For purposes in evaluating this bid, since Westoil only does
22 barge operations and Millennium only does tug operations, how
23 were those bids considered?

24 A We grouped them together for comparison purposes of rates,
25 since they could only each offer one area of crewing.

1 Q In the company overview on page 5, you identify seven
2 operating companies. Who are those operating companies?

3 MR. RIMBACH: Objection. The document speaks for itself.

4 MR. HILGENFELD: It doesn't say who the operating
5 companies are.

6 JUDGE SANDRON: Which -- you're talking about what, the
7 barge list?

8 MR. HILGENFELD: Yeah. If you look at -- if --

9 Q BY MR. HILGENFELD: Ms. Beckman, I'm going to turn you to
10 B, second paragraph, turn your first sentence of that second
11 paragraph, it talks about seven operating companies that
12 Centerline Logistics is the parent company of. Do you see that
13 sentence?

14 A I do.

15 Q Who are those seven operating companies?

16 A At the time it was Millennium, Westoil, Olympic Tug &
17 Barge, Harley Marine New York, Harley Marine Gulf, Starlight
18 and Pacific Coast Maritime.

19 Q Why was -- was Starlight Marine included in the RFP?

20 A Not as a bidder.

21 Q Why not?

22 A Because we were already engaging in the sale of Starlight
23 to Saltchuk.

24 Q Was -- PCM, is that Pacific Coast Maritime?

25 A Yes.

1 Q Was Pacific Coast Maritime included in the bid?

2 A They were not.

3 Q And why not?

4 A They're a small operation that wouldn't have the adequate
5 manpower to crew the equipment in these ports.

6 Q And where was Starlight Marine performing operations out
7 of?

8 A San Francisco.

9 Q And where was -- where does Pacific Coast Maritime perform
10 operations?

11 A Out of Alaska.

12 Q In a specific area of Alaska?

13 A Probably.

14 Q Is Respondent's Exhibit 17, a true and correct copy of the
15 invitation to bid that went out to the five operating companies
16 you previously identified?

17 A Yes, it is.

18 Q Is this -- was this document kept in the ordinary course
19 of business?

20 A Yes.

21 MR. HILGENFELD: At this time we'd move to offer
22 Respondent's Exhibit 17.

23 JUDGE SANDRON: Any objection?

24 MR. RIMBACH: No, Your Honor.

25 JUDGE SANDRON: The document is received.

1 **(Respondent Exhibit Number 17 Received into Evidence)**

2 Q BY MR. HILGENFELD: What was your understanding as to why
3 the bid was being conducted by Harley Marine Financing on those
4 three ports?

5 A I believe these were our highest cost ports to operate.

6 Q Do you know why they're the highest cost ports?

7 A I do not.

8 MR. RIMBACH: Objection as to foundation.

9 JUDGE SANDRON: On what did you base the conclusion they
10 were high cost? Did you check records or how is that?

11 THE WITNESS: I got that from Mr. Godden.

12 JUDGE SANDRON: So he -- he gave you that information?

13 THE WITNESS: He said -- when we first spoke about doing
14 the RFP, he said we need to evaluate costs in these ports,
15 hence why we're doing the process.

16 Q BY MR. HILGENFELD: Other than sending out the request for
17 the RFP to the operating companies, did you instruct any of the
18 specific companies as to what ports to bid on?

19 A No.

20 Q Did you instruct any of the operating companies as to how
21 to present a bid?

22 A No.

23 Q Did you instruct any of the companies that they're
24 required to submit a bid?

25 A No.



1 Q In your letter of invitation, you state that individuals
2 may contact you, they contact the nominated contact, do you see
3 that?

4 A I do.

5 Q Who is the nominated contact?

6 A I was.

7 Q I believe this may have gotten in when Judge Sandron asked
8 you a question, but just to be clear. Do you know the date
9 that this RFP was sent to the operating companies?

10 A October 14th, 2020.

11 Q Ms. Beckman, next turn your attention to Respondent's
12 Exhibit 18. Do you recognize Respondent's Exhibit 18?

13 A I do.

14 Q Please -- I'm going to first point your attention to pages
15 1 through 8 of this document. Do you recognize Respondent's
16 Exhibit 18, pages 1 through 8?

17 A Yes.

18 Q What is Respondent's Exhibit 18, pages 1 through 8?

19 A It's the initial bid from Westoil.

20 MR. RIMBACH: Objection. Just for clarity of the record,
21 I believe, this exhibit consists of multiple documents, so
22 maybe you can clarify.

23 MR. HILGENFELD: That's what we're doing. That's why
24 we're looking at 1 through 8.

25 MR. RIMBACH: Well, you asked her a question about the



1 entire document, and she said it was the initial bid. But
2 there's a letter of acknowledgement, the bid submission letter.
3 There are two separate.

4 MR. HILGENFELD: I asked --

5 MR. RIMBACH: It's just unclear on the record.

6 MR. HILGENFELD: Fair -- fair enough. We'll go through
7 it.

8 Q BY MR. HILGENFELD: Ms. Beckman, looking at page 1 of
9 Respondent's Exhibit 18, what is page 1 of this Exhibit?

10 A It's the letter of acknowledgment from Westoil.

11 Q Do you recognize this exhibit -- page 1 of this exhibit?

12 A I do.

13 Q And what is -- is this the letter of acknowledgment that
14 you received from Westoil?

15 A Yes.

16 Q And who sent it to you?

17 A Brian Vartan.

18 Q Do you know when you received the letter of acknowledgment
19 from Mr. Vartan?

20 A October 16th, 2020.

21 Q And looking at pages 2 and 3 of this exhibit, what are
22 pages 2 and 3?

23 A It's the bid submission letter.

24 Q And the bid submission letter from who?

25 A Westoil.

- 1 Q Do you recognize Mr. Vartan's signature?
- 2 A Yes.
- 3 Q And on page 3, is that Mr. Vartan's signature?
- 4 A Yes.
- 5 Q And did you receive this bid submission letter from Mr.
- 6 Vartan?
- 7 A Yes.
- 8 Q And when did you receive it?
- 9 A October 16th.
- 10 Q In the box, on the front page, there is a clarification
- 11 reference that was issued. Did you submit a clarification
- 12 regarding the bid process?
- 13 A I did.
- 14 Q And what was the purpose of the clarification?
- 15 A I -- I think there was a typo on that page. It really
- 16 wasn't anything of consequence. But I wanted -- there was a --
- 17 yeah. There was just an error on one page.
- 18 Q Okay. And do you recall on what attachment that error was
- 19 on?
- 20 A It was on attachment 4.
- 21 Q And that's the qualifications of exemptions to the scope
- 22 of work?
- 23 A Correct.
- 24 Q And what date was that -- that clarification sent to the
- 25 applicants?

1 A That was sent out on October 21st, 2020.

2 Q Turning your attention to page 4 of Respondent's Exhibit
3 18. What is page 4?

4 A This is Westoil's qualifications or exceptions to scope.
5 They detailed out their history operating in the area and then
6 how they propose to man the equipment.

7 Q What part of page 4 was presented to you by Mr. Vartan?

8 A All of it.

9 Q Turn to -- I guess, on what regions and bids Mr. Vartan
10 for Westoil put in a bid for?

11 A Only for the barges in LA.

12 Q All right. And looking at page 5, what is page 5?

13 A It's their bid. Westoil's bid.

14 Q And looking at Westoil's bid, can you determine what the
15 daily barge rate is?

16 A Yes.

17 Q What's the daily barge rate?

18 A \$2,467.

19 Q And pages 6, 7, and 8 appear to have 0s in the total per
20 day; is that correct?

21 A That's correct.

22 Q Did Mr. Vartan submit these as part of his application?

23 A Yes.

24 Q At some point in time, did Mr. Vartan revise his
25 application?

1 A He did.

2 JUDGE SANDRON: Just to clarify, he initially submitted
3 pages 1 through 8?

4 THE WITNESS: Correct. 1 through 8 were the -- the first
5 bid.

6 Q BY MR. HILGENFELD: And I -- when did he submit the
7 schedule of rates and the full bid package? Was it all
8 submitted at the same time?

9 A Yes.

10 Q Did Mr. Vartan revise his bid after submitting this
11 October 22nd bid?

12 A Yes.

13 Q And when did he revise his bid?

14 A He sent a revised bid on October 27th.

15 Q And was this a revised bid -- well, do you have an
16 understanding of what precipitated the revised bid?

17 A I had two clarifying questions for him.

18 Q What questions did you have?

19 A I asked if the crew cost that he provided were fully
20 burdened, and if the daily barge rate also included shoreside
21 management and if that wage rate was also fully burdened.

22 Q How did you ask Mr. Vartan those questions? In what
23 medium?

24 A In an email.

25 Q Turn your attention to pages 9 and 10. Do you recognize

1 pages 9 and 10?

2 A Yes.

3 Q And actually, 9 through 15. Do you recognize those?

4 A Yes.

5 Q Are pages 11 through 15 the attachments from the email?

6 A Yes.

7 Q Looking at your email on page 9, do you see on number 1,
8 are all crew costs fully burdened?

9 A Yes.

10 Q What does it mean to be fully burdened in your opinion?

11 A It's the cost of an employee beyond salary, so medical,
12 401(k) benefits package, basically.

13 Q Number 2, please confirm your day rate for the LA/Long
14 Beach barges includes your shoreside staff, and those wages are
15 also fully burned. Is burned there supposed to be burdened?

16 A It is.

17 Q Okay. Why was shoreside staff included?

18 A In the RFP we asked, in addition to the crew members that
19 there was managerial oversight shoreside. We didn't dictate
20 how many, who, what positions, just that there was managerial
21 oversight present on site.

22 Q And when you say shoreside, what do you anticipate as
23 shoreside people -- what -- what's their role?

24 A We didn't designate what role it could be. Bidders bid
25 differently on that aspect.

1 Q Would -- would they be on the vessels?

2 A No. Shoreside is anybody but crew members?

3 Q Would they be -- have some type of supervisor or
4 managerial capacity?

5 A Yes.

6 Q And in the revised bid from Mr. Vartan, did he provide --
7 did he respond to your questions?

8 A He did.

9 Q Did Mr. Vartan provide the fully burdened, crew cost and
10 shoreside cost bid for proposal?

11 A He did.

12 Q And what is the day rate on that fully burdened proposal?

13 A \$2,416.

14 Q If you turn to page 11, what is page 11?

15 A It's his revised bid with the breakdown of my questions,
16 essentially.

17 Q And the 31 percent burden rate, do all the companies have
18 the same burden rate?

19 A No.

20 Q Did you have any role in -- did you provide anyone with
21 their burden rate?

22 A No.

23 Q Do you know -- is -- did Mr. Vartan reach out to you to
24 ask you any clarifying questions about submitting the bid other
25 than the email that we've seen?

- 1 A Yes.
- 2 Q And when was that?
- 3 A I don't remember the day, but sometime after the initial
4 package was sent out.
- 5 Q And how did how did you communicate with Mr. Vartan?
- 6 A I'm sure it was in-person.
- 7 Q Where is your office located at?
- 8 A 1610 Barracuda Street, San Pedro.
- 9 Q And are you -- we've had some testimony regarding cubicles
10 and offices and things; what do you have?
- 11 A I have an office.
- 12 Q Where is Mr. Vartan located?
- 13 A The same office as I am.
- 14 Q Okay. Is he in the same office space or is he in the same
15 building?
- 16 A Same building.
- 17 Q Does he -- does he have a separate office or a cubicle?
- 18 A Separate office.
- 19 Q What do you recall, Mr. Vartan -- I guess, to the best --
20 you said sometime after October 14th; is that correct?
- 21 A Correct.
- 22 Q And would that have been before or after he submitted his
23 bid, to the best of your knowledge?
- 24 A Before.
- 25 Q And did you testify whether that was on phone, in-person,

1 email?

2 A I'm sure it was in-person.

3 Q What do you recall Mr. Vartan asking you?

4 JUDGE SANDRON: Do you -- do you remember specifically
5 where you met him, if it was in-person or not?

6 THE WITNESS: I do not.

7 JUDGE SANDRON: Okay.

8 THE WITNESS: I don't remember specifically, sorry.

9 Q BY MR. HILGENFELD: Do you recall what the address
10 location it would have been at?

11 A 1610 Barracuda Street. Yeah.

12 Q So it could have been your office or his office or
13 somewhere in between?

14 A Sure.

15 Q What do you recall Mr. Vartan asking you?

16 JUDGE SANDRON: I guess just for foundations, was -- was
17 anybody else present when you talked to him?

18 THE WITNESS: No.

19 Q BY MR. HILGENFELD: What do you recall Mr. Vartan asking
20 you?

21 A Essentially, he wanted clarification on how he was to come
22 up -- how he was to get the information on the rates, which I
23 told him I could not assist him with, but he could call Bill
24 Backe in our accounting office if he needed help with his
25 rates, especially the burden rate.

1 Q And you said Bill Backe in the accounting office. Whose
2 accounting office?

3 A Sorry. Centerline's accounting.

4 Q And do you know what his position was at that time?

5 A It might have been staff accountant. I'm not sure at the
6 time.

7 Q Why did you give Mr. Backe's name?

8 A Because he could help the bidders with the -- with their
9 information.

10 Q Did you -- do you recall responding to Mr. Vartan at that
11 time, aside from what you just testified to?

12 A I don't think I would have given any other information
13 besides to call Bill for help with numbers.

14 Q Do you recall if Mr. Vartan said anything else in that
15 conversation?

16 A Not to my recollection, no.

17 Q At the time you provided Mr. Backe's name, did you have a
18 conversation with Mr. Backe?

19 A I did.

20 Q Do you -- approximately when would you have spoken with
21 Mr. Backe?

22 A Probably mid-October, probably before the bids went out.

23 Q Do you recall if that conversation was in the phone, in-
24 person, by Zoom?

25 A I'm sure it was by phone.

1 Q And where is Mr. Barkley located at?

2 A In our Seattle office.

3 Q And was anyone else on the phone when you spoke with Mr.
4 Backe?

5 A No.

6 Q What do you recall you saying to Mr. Backe on that
7 conversation?

8 A I -- we just told him that we were conducting an RFP
9 process and that he would probably be getting calls from the
10 various operating companies wanting help with the current
11 manning costs and burden rates.

12 Q What did Mr. Backe say to you?

13 A He said okay.

14 Q And do you recall anything else being said about -- at
15 that conversation?

16 A No. I kept it very high level. I didn't know details
17 about the RP were given out, just that it was being conducted.

18 Q Do you recall having other conversations with Mr. Backe
19 about this bid process?

20 A That was it.

21 Q Did you give Mr. Backe any indication about numbers he was
22 supposed to provide to the property companies?

23 A No.

24 Q During this bid process, at that revised bid, do you
25 recall any other conversations with Mr. Vartan regarding



1 Westoil's bid?

2 A No, I do not.

3 Q At this time -- is this -- were these documents kept in
4 ordinary course of business, Ms. Beckman?

5 A Yes.

6 MR. HILGENFELD: At this time, we would offer Respondent's
7 Exhibit 18.

8 MR. RIMBACH: It's already in the record, Chris.

9 MR. HILGENFELD: Ah, thank you. That's why you already
10 have copies.

11 MR. RIMBACH: Yes.

12 JUDGE SANDRON: I just want -- a point. It's probably --
13 you probably have it in the record, but when it says added 31
14 percent burden rate on page 11. That's like in addition to
15 wages?

16 WITNESS: Correct.

17 JUDGE SANDRON: And it was all benefits?

18 WITNESS: Correct.

19 JUDGE SANDRON: Thank you.

20 BY MR. HILGENFELD:

21 Q And did you play any part in computing that 31 percent?

22 A No.

23 MR. HILGENFELD: This is probably a good time to take
24 lunch.

25 JUDGE SANDRON: Okay. Let's see. It's 12:30. Should we

1 come back at 1:30? Does that sound like a good time? All
2 right, so we'll see everybody back at 1:30.

3 MR. HILGENFELD: Wonderful.

4 JUDGE SANDRON: Have a good lunch. Off the record.

5 (Off the record at 12:29 p.m.)

6 JUDGE SANDRON: Back on the record. Ms. Beckman, direct
7 examination.

8 MR. HILGENFELD: Good afternoon, Ms. Beckman. How are you
9 doing?

10 WITNESS: Good, thank you.

11 BY MR. HILGENFELD:

12 Q Now I would like to turn your attention to Respondent's
13 Exhibit 19. Do you have a Respondent's Exhibit 19 in front of
14 you?

15 A I do.

16 JUDGE SANDRON: One thing, if some of these documents have
17 already been admitted -- I don't know -- I don't have a running
18 track of that right here, but if the document's already been
19 admitted, it might be helpful to say so, so we don't have to --

20 MR. HILGENFELD: Thank you, Your Honor. I understand this
21 document has been admitted.

22 BY MR. HILGENFELD:

23 Q Ms. Beckman, we'll walk through this document just like we
24 did with the Westoil document. If -- what is page 1 of
25 Respondent's Exhibit 19?

1 A This is the letter of -- letter of acknowledgment from
2 Millennium.

3 Q And who submitted the acknowledgement and the bid for
4 Millennium?

5 A Matt Hathaway.

6 Q Do you know who employed Matt Hathaway?

7 A Millennium Maritime.

8 Q And Ms. Beckman, what areas or locations did Mr. Hathaway
9 submit a bid for?

10 A Just the tug portion of LA/Long Beach.

11 Q Did you have any conversations with Mr. Hathaway regarding
12 submissions of a bid?

13 A Only if he had questions, like clarifying questions, yes.

14 Q Do you recall him having any clarifying questions?

15 A He did, yes.

16 Q And do you recall if Mr. Hathaway presented those
17 clarifying questions in writing or by email or in some other
18 manner to you?

19 A I believe we spoke in person.

20 Q Where's Mr. Hathaway located at?

21 A 1610 Barracuda Street.

22 Q In November of 2020, did Mr. Hathaway have an office?

23 A I don't believe so.

24 Q So he would have been in a cubicle?

25 A Right. Correct.

1 Q And Ms. -- Ms. Beckman, when did you receive the letter of
2 acknowledgement from Mr. Hathaway?

3 A October 16th.

4 Q And prior to the letter of acknowledgement, do you recall
5 having any conversations with Mr. Hathaway?

6 A I do recall having a conversation with him regarding
7 contacting Bill Backe for -- for assistance with his bid.

8 Q Okay. Do you recall approximately when that was?

9 A I -- I don't. Probably shortly after sending the bid,
10 prior to the 16th. Sometime between the --

11 Q Between October 14th and October 16th?

12 A Correct.

13 Q And where do you recall speaking with Mr. Hathaway, if you
14 have a recollection?

15 A At 1610 Barracuda Street.

16 Q Do you recall if it was in your office or in a common
17 area?

18 A It either would have been in my office or in a, like, a
19 communal conference room, but in a private area.

20 Q Do you recall if anyone else was present who spoke with
21 Mr. Hathaway?

22 A No one was.

23 Q What did Mr. Hathaway ask, to the best of your
24 recollection?

25 A Essentially was asking how -- how does he figure out his

1 burden rate, in which I told him Bill Backe can help you with
2 that.

3 Q Do you recall anything else about that conversation?

4 A I don't.

5 Q Okay. And if you look at pages 2 through 8 of this
6 document -- do you recognize pages 2 through 8 of this
7 document?

8 A I do.

9 Q And what are pages 2 through 8?

10 A It's the full bid from Millennium.

11 Q And who submitted the bid for Millennium?

12 A Matt Hathaway.

13 Q And when did Mr. Hathaway submit the bid?

14 A October 23rd.

15 Q Are pages 2 through 8 -- is anything in addition that
16 was -- strike that question. What was the daily barge rate of
17 Mr. Hathaway's bid for the tug work in Long Beach?

18 A The daily tug rate was \$1,564.31.

19 Q Did you provide any input -- and where do you find that?
20 What page?

21 A Page 6.

22 Q And what column on page 6?

23 A The far-left column.

24 Q Did you provide Mr. Hathaway with any communications input
25 as to what his tug rate should be?

1 A No.

2 Q Did you give Mr. Hathaway any indication about what other
3 rates were presented to you?

4 A No.

5 Q Did you give Mr. Vartan any indication about what other
6 rates were presented to Westoil?

7 A No.

8 Q Or to other companies?

9 A No.

10 Q Ms. Beckman, if you look at page 4 in the qualifications
11 or exceptions to scope of work, under the line, who presented
12 that information to you?

13 A Matt Hathaway.

14 Q Did you provide any information on anything else in this
15 piece -- of that document?

16 A No.

17 Q I want to turn your attention to Exhibit 20. Do you
18 recognize -- first off, Your Honor, I believe Exhibit 20 has
19 been admitted into the record.

20 JUDGE SANDRON: Thank you.

21 Q Do you recognize Exhibit 20?

22 A I do.

23 Q And what is page 1 of Exhibit 20?

24 A It is the letter of acknowledgement from Olympic Tug &
25 Barge.

- 1 Q And who submitted the letter of acknowledgement?
- 2 A Sven Titland.
- 3 Q When did Mr. Titland submit the letter of acknowledgement
- 4 to you?
- 5 A October 14th.
- 6 Q Of 2020?
- 7 A Of 2020.
- 8 Q What ports did Mr. Titland seek?
- 9 A All -- all areas.
- 10 Q If you look at pages 2 through 8 for a moment, what are
- 11 pages 2 through 8?
- 12 A It's the full submission from Olympic Tug & Barge.
- 13 Q Submitted by Mr. Titland?
- 14 A Yes.
- 15 Q And when did you receive the submission from Mr. Titland?
- 16 A October 23rd, 2020.
- 17 Q And what was the daily barge rate submitted by Mr.
- 18 Titland?
- 19 A For LA/Long Beach?
- 20 Q For LA/Long Beach.
- 21 A So he submitted it as a total per day for all pieces of
- 22 equipment and his total was \$7,524.46.
- 23 Q How would you find the day rate from that?
- 24 A Just divide it by six.
- 25 Q Because that's the number of barges?

1 A Correct.

2 Q Did -- what was the rate, or what page was the rate for
3 the tug schedule of rates presented by Mr. Titland?

4 A Page 5.

5 Q And how would you calculate the daily rate for the tugs?

6 A Just divide the day rate by five.

7 Q And the day rate, is that \$5,625 divided by five?

8 A Correct.

9 Q Going back to page 4 for a moment, there is writing on the
10 left-hand side below the barge day rate, 14 shoreside tankermen
11 for decking. Did you have an understanding of what was meant
12 by that?

13 A Yes.

14 Q What -- what was your understanding?

15 A That the per day rate included full-time tankermen and
16 deckhands.

17 Q Did you provide Mr. Titland with any -- any instruction
18 about how to crew the barges or the tugs?

19 A No.

20 Q During this period of time, did you have any phone
21 conversations with Mr. Titland?

22 A Yes.

23 Q How many phone conversations do you recall with Mr.
24 Titland during this period of time?

25 A At least one, maybe two. At least one.

1 Q And when do you recall having the first conversation?

2 A I -- I remember the first conversation was on October
3 23rd, the day he submitted his first bid.

4 Q Do you recall who called who?

5 A I don't recall who called who.

6 Q Do you recall what time of day the conversation occurred?

7 A Probably in the afternoon.

8 Q What do you recall Mr. Titland saying to you?

9 A Well, we speak frequently over the phone, so I -- I
10 believe, if I'm recalling correctly, we were speaking about
11 other matters and then in the same conversation I asked him if
12 his rates were fully burdened or not, to confirm that over the
13 phone.

14 Q So this -- would this have been before or after you'd
15 received the bid?

16 A It would have been after I received his bid.

17 Q So you received the bid and then talked to him on the
18 phone about it?

19 A Correct.

20 Q Okay.

21 A And then I received another bid that same day because, in
22 fact, the rates weren't fully burdened.

23 JUDGE SANDRON: Where was he located at the time?

24 WITNESS: He's in our Seattle office.

25 JUDGE SANDRON: ISA?



1 WITNESS: Yeah.

2 BY MR. HILGENFELD:

3 Q Do you know if he was in Seattle at that point in time?

4 A I do not. I know he wasn't in LA, but I don't know where
5 he was physically, no.

6 Q You asked if their rates were fully burdened. How did Mr.
7 Titland respond?

8 A He said no, they were not.

9 Q Okay. Did Mr. Titland end up providing a revised bid?

10 A He did.

11 MR. HILGENFELD: These are in the book.

12 JUDGE SANDRON: This is a new document?

13 MR. HILGENFELD: This is a new document.

14 JUDGE SANDRON: Respondent's 31 for identification.

15 BY MR. HILGENFELD:

16 Q Ms. Beckman, do you recognize Respondent's Exhibit 31?

17 A I do.

18 Q What is Respondent's Exhibit 31?

19 A It's the revised proposal from Olympic Tug & Barge after
20 my conversation with Sven.

21 Q Do you know how you received the revised -- do you know
22 how you received this document?

23 A Email, I believe.

24 MR. RIMBACH: I'm sorry, if I could just ask the
25 Respondent's counsel -- I don't believe we received this email.



1 MR. HILGENFELD: I believe you have. I can double check,
2 but I think you have.

3 MR. RIMBACH: If you could double check. We haven't seen
4 this before, this document, or the email that attaches it.
5 We've searched multiple times through the production.

6 MR. HILGENFELD: Yeah, I mean, I know we pulled this off
7 on what we produced, but I don't -- it's not easy for us to
8 find what we produced. I'm happy to do so. Can we do it at a
9 break?

10 MR. RIMBACH: Sure.

11 MR. HILGENFELD: Okay.

12 MR. RIMBACH: Thanks.

13 BY MR. HILGENFELD:

14 Q Ms. Beckman, I guess, what is Respondent's 31? You may
15 have asked, and I apologize.

16 A No, that's okay. It's the revised rates that I received
17 from Sven for OTB.

18 Q And what's your understanding of how the rates were
19 revised from this one from Respondent's 20?

20 A I believe the burden rate was added -- the burden
21 percentage was added to -- to the revised offer.

22 Q And so if you look at Respondent's Exhibit 31, how would
23 you determine the burden -- the barge day rate for the LA/Long
24 Beach barges?

25 A You would just take the -- their new number was \$9,593.71

1 and you would just divide that by six.

2 Q Okay. Were there any other changes, aside from that, to
3 your knowledge or information?

4 A Besides adding the burden percentage?

5 Q Correct.

6 A Not to my knowledge, no.

7 Q And Ms. Beckman, is this a true and accurate copy of the
8 schedule of rates received from Mr. Titland?

9 A Yes.

10 Q Was this document kept in ordinary course of business?

11 A Yes.

12 Q We would be offering to move for Respondent's Exhibit 31.
13 I don't mind withholding that and giving counsel an opportunity
14 to look at the document at a break if we want to do it that
15 way. I just want to make sure we've offered it on the record.

16 MR. RIMBACH: I'd like to wait until the associated email
17 is also offered or provided to us, Your Honor, before this is
18 admitted, based on the witness's testimony.

19 JUDGE SANDRON: We'll hold that in abeyance then.

20 MR. HILGENFELD: Thank you.

21 BY MR. HILGENFELD:

22 Q Ms. Beckman, during this period of time you talked about
23 one conversation with Mr. Titland regarding burden rate. Do
24 you remember any other conversations with Mr. Titland?

25 A Not specifically.



1 Q Specifically about the bid process?

2 A Right.

3 Q Ms. Beckman, I'd like to turn your attention to
4 Respondent's Exhibit 21. Do you recognize -- and this has been
5 admitted into the record, I believe, Your Honor. Do you
6 recognize page 1 and 2 of Respondent's Exhibit 21?

7 A I do.

8 Q And what are pages 1 and 2?

9 A It is the bid submission letter from Harley Marine New
10 York.

11 Q And who presented this for Harley Marine New York?

12 A Brian Moore.

13 Q In which areas did Mr. Moore present bids for?

14 A He presented them for all areas.

15 Q In looking at attachment 3 and 4, if you look at page 3
16 for the LA/Long Beach barges, he has zero dollars per day and
17 then if you look at page 4, he had \$9,678.75 per day. What was
18 your understanding? What was meant by Mr. Moore's proposal?

19 A Because their operation's a little bit different in New
20 York, they have manned barges with paired boats, so he was
21 bidding them as a unit. So my understanding was that this was
22 all encompassing, both the tug and the barge, in this rate.

23 Q Did you have an understanding of whether Harley Marine New
24 York was bidding for the LA/Long Beach barge work as well?

25 A Yes.



1 Q If you look at page 7 of Respondent's Exhibit 21, on the
2 qualifications or exceptions to scope of work, did you present
3 or edit anything on page 7 as to his qualifications presented
4 there?

5 A No.

6 Q Who provided that information?

7 A Brian Moore.

8 Q If you go to page 8 through 11, what are pages 8 through
9 11?

10 A It's the email correspondence between Brian Moore and
11 myself about the RFP.

12 Q If you look at page 2, in the middle of the page it
13 appears that you have a few questions for Mr. Moore. Do you
14 see that?

15 A Yes.

16 Q And we've talked about burden rate. Number 6 you talk
17 about tug rates excluding captains. Why did you ask about
18 excluding captains?

19 A I wanted to confirm that he didn't have that in his rate
20 because in the RFP we detailed out that captains were
21 management employees, and they weren't included in this RFP
22 process.

23 Q Did Mr. Moore respond to your questions?

24 A He did.

25 Q And where are his responses?



1 A They're on page 8.

2 Q Did you have any communications with Mr. Moore aside from
3 this email regarding the bid process around this time?

4 A Not that I can recall, no.

5 Q Where is Mr. Moore located, or where was he located in
6 November of 2020?

7 A Our Harley Marine New York Office.

8 Q And where is that located at?

9 A I think New Jersey. I'm not sure.

10 Q Is it in LA?

11 A No.

12 Q Turning your attention to pages 12 through 15. Do you
13 recognize pages 12 through 15?

14 A Yes.

15 Q What are pages 12 through 15?

16 A They're his revised -- his -- pretty much the same email
17 correspondence as previous but with his revised rates attached.

18 Q And the attachments to this email, are they behind this
19 email?

20 A Yes, they are.

21 Q Turning your attention to Exhibit 22. Do you recognize
22 Exhibit 22?

23 A I do.

24 Q And this has been admitted, Your Honor. And who is this a
25 bid for?



- 1 A This is a bid for Harley Marine Gulf.
- 2 Q What regions did Harley Marine Gulf bid on?
- 3 A They bid on all regions.
- 4 Q And who presented the bid for Harley Marine Gulf?
- 5 A Matt Hammond.
- 6 Q And where is Mr. Hammond located at?
- 7 A In our Harley Marine Gulf office.
- 8 Q And where is that located?
- 9 A In Channelview, Texas.
- 10 Q And do you know -- do you know if Mr. Hammond -- who Mr.
- 11 Hammond was employed by at that time?
- 12 A Harley Marine Gulf.
- 13 Q I see his email has an @centerlinelogistics.com domain.
- 14 Do all employees for all subsidiaries have that domain?
- 15 A Yes.
- 16 Q Does that domain give any indication about where they're
- 17 employed?
- 18 A No.
- 19 Q Turning your attention to pages 2 through 10, do you
- 20 recognize pages 2 through 10?
- 21 A Yes.
- 22 Q Okay, and what was the day rate that Harley Marine Gulf
- 23 presented for the block in the LA/Long Beach area?
- 24 A For barges they presented a day rate of \$2,458 per barge
- 25 and a tug rate of \$1,030 per tug.

1 Q The comment below the day rate, the barges here will be
2 considered as day barges. Do you see that?

3 A I do.

4 Q Who instituted -- who put in that language?

5 A Matt Hammond did.

6 Q Do you have an understanding what he means in what he
7 states there about the LA/Long Beach barges?

8 A I do.

9 Q And what does -- understand?

10 A That the crew members do not live aboard the equipment.

11 Q Do crew members live aboard barges in certain areas of the
12 country?

13 A They do.

14 Q The LA tugs -- what was the day rate for the LA tugs?

15 A \$1,030 per tug.

16 Q And then did you present or put in the writing into the
17 tug rate?

18 A I did not.

19 Q And who put that in there?

20 A Matt Hammond.

21 Q If you turn your attention to page 7. Do you recognize
22 page 7?

23 A I do.

24 Q And what's page 7?

25 A The scope of -- exceptions to scope of work or

1 qualifications from Harley Marine Gulf.

2 Q Okay, and under the line, did you put in any of the
3 information here in this document?

4 A I did not.

5 Q Who did?

6 A Matt Hammond.

7 Q Did you speak with Mr. Hammond at any point during this
8 bid process to the best of your recollection?

9 A I believe we had a phone conversation. I believe I got a
10 call from Mr. Hammond, again wanting clarification on how to
11 find burden rates.

12 Q And approximately when did you receive that conversation?

13 A Sometime between October 14th and the 16th.

14 Q Do you recall at -- well, was it by phone?

15 A Yes.

16 Q Do you know who initiated the call?

17 A I know he did.

18 Q What do you recall Mr. Hammond asking, as best as you can?

19 A Just how -- how to go about finding burden rates.

20 Q And what did you tell Mr. Hammond?

21 A I directed him to Bill Backe.

22 Q Do you recall anything else about that conversation?

23 A I do not.

24 Q Do you recall any other conversations with Mr. Hammond?

25 A I do not.



1 Q Turning your attention to pages 11 and 12 -- 11 through
2 18. Do you recognize that email?

3 A Yes.

4 Q And what is -- what is the email from pages 11 to 18?

5 A It's clarifying questions on his bid.

6 Q And what was Mr. Hammond clarifying?

7 A I had asked him to confirm that the crew costs were
8 burdened and that the shoreside staff cost and burden rate were
9 also included in the daily tug rate.

10 Q If this email below went out on October 26th, do you think
11 you would have spoken with Mr. Hammond before or after that
12 time frame on the phone?

13 A Oh, before that.

14 Q Okay. Also, looking at this email, if you look at page
15 12, the footers between your name and Mr. Hammond's name look
16 remarkably similar. Do all the Centerline employees,
17 regardless of company affiliation, have the same footers?

18 A Yes.

19 JUDGE SANDRON: What page are you on, 12?

20 MR. HILGENFELD: Page 12.

21 JUDGE SANDRON: You're saying what looks -- the Centerline
22 Logistics line?

23 MR. HILGENFELD: The whole footer from the name all the
24 way down.

25 JUDGE SANDRON: Oh, I see, in the logo.

1 MR. HILGENFELD: Yeah.

2 JUDGE SANDRON: Okay, I see that.

3 BY MR. HILGENFELD:

4 Q Ms. Beckman, I'm going to turn your attention now to page
5 19 through 21. And what is pages 19 through 21?

6 A Some clarifying questions between me and Mr. Hammond.

7 Q Why were you asking for the fully burdened yearly wages
8 for the shoreside staff?

9 A Because at one point during the comparison of the bids,
10 Matt and I decided to exclude the shoreside management costs so
11 we could just compare apples to apples for crew bids. So
12 previously, Mr. Hammond had not broken that out, so I needed
13 the numbers to break out his -- to break out his wages that are
14 solely crew wages.

15 Q Did you -- did you take the same steps with all the
16 companies that participated in the bid process?

17 A If they hadn't already broken it out in their initial bid
18 somewhere, I did, but a lot of them had already put that
19 information detailed out so I didn't need to ask for clarifying
20 information.

21 Q Very good. Ms. Beckman, did all of the companies submit
22 timely bids?

23 A Yes.

24 Q Aside from the conversations that you've talked about
25 regarding the bidding process related the operating companies,



1 did you have any other phone conversations with those companies
2 about the bid process from October 1th through October 23rd,
3 2020?

4 A Not that I can recall.

5 Q Do you recall any other additional conversations that you
6 had with any of those operating companies from October 23rd to
7 November 30th, 2020 about their bids or the bid process?

8 A Not that I recall.

9 JUDGE SANDRON: One question. Was it your understanding
10 that the bids were going to be awarded by location or for those
11 bidders that did maybe, you know, two or three different
12 locations, were they going to be considered together or each
13 location separately?

14 WITNESS: I don't know, truly, how it was going to be
15 evaluated all together. The only areas that were grouped for
16 our comparison purposes were the tugs and the barges in LA/Long
17 Beach for Westoil and the bid. Since they each only bid one
18 piece, we did combine them for comparison purposes, but I don't
19 have an understanding beyond that.

20 JUDGE SANDRON: All right. That's fine.

21 WITNESS: Okay.

22 BY MR. HILGENFELD:

23 Q Aside from the one conversation you spoke about with Mr.
24 Backe on or around October 14th, 2020, do you recall having any
25 other conversations with Mr. Backe about the bid process?



1 A I did not have any.

2 Q And we'll get to Mr. Godden here in a moment. Aside from
3 Mr. Godden, and aside from the conversations you testified to,
4 do you recall having any other conversations or communications
5 with any other individuals about the bid process?

6 A No.

7 Q Why was that?

8 A Because we were trying to keep it fair and impartial. It
9 wasn't -- it wouldn't be appropriate to discuss it with anybody
10 else.

11 Q When you received the initial bids on October 23rd, 2020,
12 what did you do next?

13 A I had clarifying questions for all, if not, 90 percent of
14 the bidders, so I asked my clarifying questions. Once I was
15 satisfied with those answers, then I put all the information
16 into a spreadsheet to be compared.

17 Q Were -- did all the bids come in in the same manner,
18 meaning the same crew requirements, the same management
19 requirements, and the other requirements?

20 A No. They were all a little bit different.

21 Q Briefly describe, kind of, how they were different.

22 A Sure. Harley Marine New York, they put maybe ten
23 shoreside personnel, but they wanted a shoreside management.
24 They also grouped the tugs and barges together since they
25 operate manned equipment on the east coast. They were going to

1 use that same crewing model on the west coast. Some -- some
2 bidders didn't give a day rate, they only gave -- sorry, didn't
3 give a per piece of equipment rate, they only gave a day rate.
4 So I had to do some editing on the spreadsheet to make sure
5 each bid was apples to apples.

6 Q And what did you do to compare those bids?

7 A I -- the way people broke -- the way people listed out
8 their shoreside management. For example, if they had one
9 dispatcher for California and one manager for California, I
10 would have to divide that by San Francisco, LA, and then divide
11 it by the tugs and the barges. So I would take that number and
12 add it to the day rate of each unit. Once I had numbers
13 comparable, then I just put them in a spreadsheet to look at.

14 Q Was anyone else tasked with helping or aiding you in that
15 process?

16 A No.

17 Q Did you rely on anyone else in that process?

18 A No.

19 Q Was there a determination as to whether a bid, after
20 receiving it on October 23rd time frame, was going to be
21 acceptable or unacceptable?

22 A Yes.

23 Q And what was that -- what was that standard?

24 A Unacceptable was determined to be five percent over the
25 average bid.

1 Q And what do you mean by five percent over the average?

2 A We took the average of each bidder in each port and if an
3 individual rate was more than five percent over that average
4 cost, then we deemed it unacceptable.

5 Q Did you look at each of the ports separately?

6 A Yes.

7 Q In looking at the average cost, did you take the average
8 cost in each port separately?

9 A Yes.

10 Q Aside from Mr. Godden, did anyone else participate in
11 reviewing the bid numbers?

12 A No.

13 Q Was Mr. Godden aware, to your knowledge, either directly
14 or indirectly, of any of the bids you received?

15 A I mean, he got submission of the bids from me, but not
16 beyond that. No.

17 Q Did I say Mr. Godden?

18 A Yeah.

19 Q Did Mr. Houghton?

20 A Oh.

21 Q I'll ask a different question. Was Mr. Houghton aware, to
22 your knowledge, either directly or indirectly, of the bids
23 received by any of the companies?

24 A He was not aware of the bids.

25 Q To your knowledge, were any of the companies in the

1 company personnel responsible for their bids aware, either
2 directly or indirectly, of the bids received by any of the
3 other companies?

4 A They were not.

5 Q I'm going to turn your attention to Exhibit 23, and this
6 has been admitted into the record. Ms. Beckman, what is
7 Exhibit 23?

8 A This was the first comparison email or first comparison
9 spreadsheet that I had sent to Matt Godden.

10 Q Between -- I believe you testified you spoke with Matt a
11 couple weeks before submitting the bids on October 14th, 2020;
12 is that correct?

13 A Correct.

14 Q Between that time and sending this email, did you have any
15 phone conversations with Mr. Godden during this period of time
16 regarding the bid process?

17 A Not that I recall.

18 Q Why did you send Mr. Godden the chart that you created?

19 A Because it was the -- the initial results of what the
20 submissions were.

21 Q And is the attachment to this document on the second page?

22 A Yes.

23 Q And is the spreadsheet that you created?

24 A It is.

25 Q So let's walk through your spreadsheet --

1 A Okay.

2 Q -- here if we can, Ms. Beckman. OTB, I'm assuming that's
3 Olympic Tug & Barge?

4 A Yes.

5 Q And the first column, LA tugs. What does the number under
6 LA tugs indicate?

7 A That is the price to man one tug per day burdened with
8 managerial oversight.

9 Q And are these -- there's writing there. Is that writing
10 in the same column, do you know, or a different column?

11 A It's the same column.

12 Q And mate engineer OS -- what is a mate?

13 A It's pretty much a captain.

14 Q What is an engineer?

15 A An engineer.

16 Q Is it somebody who's on the crew?

17 A It is, sorry. I didn't know how to further explain that,
18 yeah.

19 Q What does OS mean?

20 A Yeah, it's an able-bodied seaman, so it's just a third
21 position.

22 Q Are all of these positions on the vessel?

23 A They are.

24 Q Okay. And then who decided -- where did you get the mate
25 engineer OS? Why -- why is that in there?

1 A I just put that in there as this was the crew complement
2 that OTB had indicated in their bid. So I didn't decide the
3 positions, I was just transferring the data.

4 Q The next column for OTB is shoreside.

5 A Yes.

6 Q How did you determine one ops manager for CA included in
7 day rate 82?

8 A That's B-2.

9 Q B-2?

10 A So that's referring to the -- I know, sorry. It's harder
11 to read not -- not on the computer, but that just -- OTB had
12 submitted that their shoreside management was going to be one
13 ops manager for the state. So I'm just indicating there that
14 that's what was proposed by them and I took that amount and I
15 was just indicating that that shoreside amount was already
16 included in the 1515.

17 Q Again, is this information that you put in there, you just
18 took from Mr. Titland?

19 A I just transferred the data. I didn't come up with any of
20 these numbers, no.

21 Q And is that true for all of the riding cost for OTB?

22 A Yes.

23 Q Then for LA barges, how did you -- what is the \$1,598.95
24 indicate?

25 A That is the -- OTB's bid to crew one barge per day.

- 1 Q And how did you reach that rate?
- 2 A It's just their -- their per day, I mean, per day rate for
- 3 all the units divided by six is how I got that number.
- 4 Q Okay. SF, does SF indicate San Francisco?
- 5 A Yes.
- 6 Q I guess down below, LA barges tankerman deckhand, are
- 7 those both positions on a vessel?
- 8 A Yes.
- 9 Q So in the San Francisco, how did you reach the \$3,172.15?
- 10 A Again, that came straight from -- from OTB's bid.
- 11 Q For all the numbers that you have for OTB, did those come
- 12 directly from OTB's bid?
- 13 A Yes.
- 14 Q For MMI, does that stand for Millennium Maritime, Inc.?
- 15 A It does.
- 16 Q Did all the numbers you have here come from MMI's bid?
- 17 A Yes.
- 18 Q And then on the engineer and deckhands, did that also come
- 19 from MMI's bid?
- 20 A Yes.
- 21 Q I think you've testified MMI just does the tugs so that
- 22 was the only area they testified -- they only put forward.
- 23 A Correct.
- 24 Q And then WMS, what does that stand for?
- 25 A Westoil Marine Services.

- 1 Q And what was Westoil Marine Services bid?
- 2 A They only bid the barge portion and their barge bid was
- 3 \$2,416 per day, per barge.
- 4 Q Do you know what a PI -- what is a PIC?
- 5 A It's a person in charge.
- 6 Q Is that a tankerman position?
- 7 A Yes.
- 8 Q Another crew person?
- 9 A Yes.
- 10 Q Okay. What does HMG stand for?
- 11 A Harley Marine Gulf.
- 12 Q And all of the numbers -- I guess, first off, all the
- 13 numbers for MMI and Westoil, did that come from the bid
- 14 directly?
- 15 A Yes.
- 16 Q Do all the numbers on HMG come from Harley Marine Gulf's
- 17 bid directly?
- 18 A Yes.
- 19 Q Do all the numbers from Harley Marine New York come from
- 20 Harley Marine New York's bid directly?
- 21 A Yes.
- 22 Q For all of them on here on the description of the manning
- 23 of it, did that come directly from the company's bids?
- 24 A Yes.
- 25 Q Did you change or alter any of the bids that you received

1 on your own?

2 A No.

3 Q Did you change any of the manning requirements or
4 shoreside requirements on your own?

5 A No.

6 Q To your knowledge, did Mr. Godden change any of the bids
7 received -- that you'd received?

8 A He did not.

9 Q Did he change any of the manning requirements that you
10 received?

11 A He did not.

12 Q What do the -- there are highlights here. What do the
13 highlights indicate?

14 A That was just highlighting the lowest price, the lowest
15 bid we received for each region.

16 Q So if I'm reading this right, the lowest bid for LA tugs
17 would be -- who would the lowest bid be?

18 A Harley Marine Gulf.

19 Q And then the lowest bid for LA barges would be OTB?

20 A Correct.

21 Q And the lowest bid for San Francisco would be OTB?

22 A Correct.

23 Q And the lowest bid for New York/Philadelphia would be OTB?

24 A Correct.

25 JUDGE SANDRON: One thing I might just bring up at this

1 point, I know these documents have been received, but Ms.
2 Yasseri, if you have any voir dire about anything in the
3 document, you know, I'll leave it up to you whether you want to
4 wait to cross or if we're going through a document and you have
5 any questions about what something means, you know, I'll leave
6 it up to you whether you want to take care of that as the
7 witness goes through the document or later go through all of
8 them at one time.

9 MR. RIMBACH: I'll wait until cross, Your Honor.

10 JUDGE SANDRON: All right, it's your option.

11 BY MR. HILGENFELD:

12 Q After receiving or after sending this email on November
13 2nd, 2020, did you and Mr. Godden discuss the information that
14 was presented?

15 A Yes.

16 Q Do you recall whether the conversation occurred in person,
17 on phone, by Zoom?

18 A It was a Zoom because we were looking at the document as
19 we spoke.

20 Q So there was a sharing of the information while you were
21 both on Zoom?

22 A Yes.

23 Q Do you recall approximately when that Zoom meeting would
24 have occurred?

25 A Well, it probably took me a little bit to get the

1 clarified -- the questions clarified that I had for the bidders
2 and then to put the -- the spreadsheet together, so I don't
3 know, maybe around, like, late October. I mean, maybe around
4 the 30th or so.

5 Q Do you think you spoke with Mr. Godden before or after you
6 sent this email to him?

7 A After.

8 Q Okay, so it would have been sometime after November 2nd,
9 2020?

10 A Yeah.

11 Q Do you recall days, weeks after?

12 A I'm sure days. Yeah, not weeks, days.

13 Q During --

14 JUDGE SANDRON: Was anybody else involved in the call?

15 WITNESS: Just us.

16 BY MR. HILGENFELD:

17 Q What do you call Mr. Godden saying during that meeting?

18 A We walked through each number similar to what we just did
19 and then we compared each bid to each other deeming what was
20 acceptable and not, the five percent that we have spoken about.

21 Q Who -- who decided the five percent acceptable range?

22 A Matt Godden did.

23 Q Do you recall any questions that Mr. Godden asked you
24 during this meeting process?

25 A Not specifically. Since we walked through each one in



1 detail, there wasn't many questions after that.

2 Q Do you recall anything in addition that you said during
3 that meeting?

4 A I do not.

5 Q Approximately how long did this meeting take?

6 A Maybe half an hour.

7 Q I'm going to turn your attention to Respondent's 24. I
8 don't believe it is in the record yet.

9 JUDGE SANDRON: It's in your book, but --

10 MR. HILGENFELD: It is in your book --

11 JUDGE SANDRON: Oh, I see.

12 MR. HILGENFELD: It's in your book.

13 JUDGE SANDRON: Oh, that's right, it hasn't been -- okay,
14 I have it in my book, so I don't need another copy.

15 BY MR. HILGENFELD:

16 Q Ms. Beckman, what is Exhibit 24?

17 A It's the -- it's various versions of the comparison of the
18 bids.

19 Q And there are three pages. I guess, was this form done on
20 Excel?

21 A Yes.

22 Q Did this form have different tabs?

23 A Yes.

24 Q What, to the best of your recollection, what were the tabs
25 that the form had?

1 A From what I can recall, I think tab 1 was bid comparison.
2 I think tab 2 was Matt edit. I think tab 3 was crew cost only.

3 MR. RIMBACH: I'm so sorry. Could I just interrupt real
4 quick? I apologize, but Respondent's Exhibit 24, it's the same
5 as GC Exhibit 216, so maybe we can just use GC Exhibit 216 just
6 so we don't have to compare two exhibits that are identical.

7 JUDGE SANDRON: That would make sense if that's the case.
8 Maybe you can check that.

9 MR. HILGENFELD: Let me check.

10 JUDGE SANDRON: If so, we don't have --

11 MR. RIMBACH: It's duplicative.

12 JUDGE SANDRON: Right.

13 MR. RIMBACH: And it's also GC Exhibit 216, excuse me,
14 217, which is the actual Excel file that was offered
15 electronically.

16 JUDGE SANDRON: Oh, I see.

17 MR. HILGENFELD: Boy, Thomas, you're testing my eyes here.

18 MR. RIMBACH: It looks like this. I can actually give
19 you --

20 MR. HILGENFELD: No, I have it in front of me. I'm just
21 double checking to make sure. I'm sure you're right, that it's
22 identical. I'm just confirming.

23 MR. RIMBACH: Okay. I have one that's printed out on
24 legal size paper if that's easier for you.

25 MR. HILGENFELD: I will make it work, but I appreciate it.

1 MR. RIMBACH: It's in color too.

2 MR. HILGENFELD: That's fine. We'll replace, just so the
3 record's clear, Respondent's 24 with GC 216. So if I may
4 approach, Your Honor?

5 JUDGE SANDRON: Yes. I think she can still, as long as
6 there's no question about the document, she can still look at
7 it.

8 MR. HILGENFELD: It does have color on it.

9 JUDGE SANDRON: Oh, I see.

10 MR. HILGENFELD: So the color piece and there's an email
11 that starts it, so it's --

12 JUDGE SANDRON: Oh, okay.

13 MR. RIMBACH: I have copies if you --

14 MR. HILGENFELD: Yeah, if you have an extra copy.

15 JUDGE SANDRON: So I think we'll take 24 out of the binder
16 that I'm going to have, remove it here.

17 BY MR. HILGENFELD:

18 Q And Ms. Beckman, on GC 216, if you look at the first page,
19 actually, there's an email from Matt to you about invite for
20 1:00 p.m. tomorrow. Do you know if that invite was on Zoom?

21 A Yes.

22 Q Would that have been the Zoom meeting that you had
23 referred to?

24 A Yes.

25 Q Okay. And then you had mentioned the first page 2 would



1 have been one tab of the Excel sheet; is that correct?

2 A Correct, yeah.

3 Q Page 3 would have been a second page of the Excel sheet?

4 A Yes.

5 Q And then page 4 would have been a third tab of the Excel
6 sheet?

7 A Correct.

8 Q On page 1, does page 1, to your memory, differ from the
9 original spreadsheet that you put forward, or page 2?

10 A Not -- not that I can recall. No, I believe this is what
11 I sent Matt and what we discussed during the Zoom.

12 Q And on the third page, I think you had said this was Matt
13 edits -- you thought this tab was under Matt edits; is that
14 correct?

15 A Correct, yeah.

16 Q And what -- when was -- when were the edits being done, to
17 your knowledge?

18 A As far as I can remember, I was doing the edits during the
19 Zoom meeting at Matt's direction, which is why I named it Matt
20 edits.

21 Q And then who named it?

22 A I -- I did, yeah.

23 Q Okay. Do you recall what Matt was asking to change in
24 this spreadsheet?

25 A He was just asking for the columns for comparison. So

1 essentially any of these highlighted columns here with the red
2 and the green boxes, that's what was added to the -- to the
3 second sheet.

4 JUDGE SANDRON: So none of the figures were changed?

5 WITNESS: None of the figures were changed.

6 JUDGE SANDRON: Or the wording?

7 WITNESS: No.

8 BY MR. HILGENFELD:

9 Q And those columns would be with the black and the red
10 lettering; is that correct?

11 A The columns that we added?

12 Q Correct.

13 A Are the red and the green.

14 Q Red and green?

15 A Right.

16 Q Okay, thank you. And it says, the first one, OTB -- and
17 for comparison's sake, it appears that LA tugs and barges were
18 combined for comparison's sake; is that right?

19 A Correct.

20 Q And what does 87 percent on OTB indicate?

21 A That they were 13 percent lower than the average bid that
22 we received.

23 Q And then OTB for San Francisco, that is 79 percent. What
24 does that indicate?

25 A That they were 21 percent lower than the average bid.

1 Q And then OTB for New York/Philly was 67 percent. What
2 does that indicate?

3 A That they were -- that they were 34 -- 33 percent lower
4 than the average bid.

5 Q Testing your math skills without a calculator.

6 A I know. I'm embarrassed.

7 Q I don't see a number going across for MMI. Why is that?

8 A They're included in the Westoil number because we were
9 comparing the regions and we were comparing LA, we were
10 comparing San Francisco, we were comparing New York.

11 Q And then how did Westoil and MMI compare to the average?

12 A Their combined bids were 11 percent higher than the
13 average.

14 Q And how did Westoil and MMI's bid compare to the lowest
15 bidder?

16 A As far as I can remember, I believe that they were about
17 20 percent higher than the lowest bidder.

18 Q In this case, who would have been the lowest bidder for
19 the LA area?

20 A For the combined services it was OTB.

21 Q And then for Harley Marine Gulf, how did Harley Marine
22 Gulf's bid compare in the LA area?

23 A They were pretty much right at the average, which is why
24 theirs -- why their column has 100 percent next to it.

25 Q Would Harley Marine Gulf's been considered an acceptable

1 bid?

2 A Yes.

3 Q And then Harley Marine New York -- and what was Harley
4 Marine New York's bid compared to the average?

5 A They were two percent over the average.

6 Q Would Harley Marine New York have been considered an
7 acceptable bid?

8 A Yes.

9 Q Would the Westoil MMI bid have been considered an
10 acceptable bid?

11 A It was not.

12 Q The third page, what did you say this tab was?

13 A Crew costs only.

14 Q Okay. How does crew costs -- did -- were these numbers
15 changed?

16 A The numbers, no. They were just pulled directly from the
17 bids with any shoreside or non-crew member costs deducted.

18 Q Do these numbers include shoreside?

19 A No.

20 Q Did -- aside from removing shoreside, or those costs
21 associated with shoreside, were there any other changes to
22 these numbers?

23 A No.

24 Q Is there anything else on page 3 that was different from
25 the other spreadsheet as you recall?

1 A No.

2 Q Why did you do a tab for crew costs only?

3 A Because we left -- we left it open to bidders to, you
4 know, bid any positions they wanted for shoreside managerial
5 oversight, we got a varying degree of positions. We had some
6 bidders only bid one manager shoreside and we had some bidders
7 bid eight. So just to take that variable out and just for us
8 to look and see what the crew costs only were, that's why we
9 did that.

10 Q Why did you, I guess, did you create the third tab?

11 A Yes.

12 Q Why did you create that third tab?

13 A It seemed a little bit to be more apples and oranges -- I
14 mean, apples to apples being the makeup of the crew complement
15 only.

16 Q For Los Angeles/Long Beach area, who had submitted
17 acceptable bids?

18 A OTB, Harley Marine Gulf, and Harley Marine New York.

19 Q Were the companies notified as to whether they had made an
20 acceptable or unacceptable bid?

21 A They were.

22 Q How were the companies notified?

23 A Via email.

24 Q Prior to getting into this, I should go back. Aside from
25 the meeting with Matt Godden on or around November 4th, 2020,

1 did you have any other meetings that you can recall with Matt
2 Godden between November 4th and November 9th, 2020?

3 A Not that I recall.

4 Q Do you recall any other communications that you had with
5 Mr. Godden between that period of time?

6 A Regarding this?

7 Q Regarding the bid.

8 A Not that I can recall.

9 Q Ms. Beckman --

10 MR. RIMBACH: I don't believe so. We have the Harley
11 Marine New York letters, but I don't think we have the --

12 MR. HILGENFELD: Okay.

13 MR. RIMBACH: Harley Marine Gulf letters.

14 BY MR. HILGENFELD:

15 Q I'm going to turn your attention to Respondent's Exhibit
16 25. I believe it's in your book.

17 JUDGE SANDRON: Yeah.

18 Q Ms. Beckman, we'll walk through. Do you recognize page 1
19 of Respondent's Exhibit 29 -- 25?

20 A I do.

21 Q And what is Respondent's Exhibit 25?

22 A It was notifying OTB which of their bids were within the
23 acceptable range and which were not.

24 Q Did you notify any of the companies as to what it meant to
25 be within the acceptable range?



1 A No.

2 Q Why not?

3 A Because that was an internal comparison that wasn't
4 supposed to be shared with the bidders.

5 Q Page 2, what is page 2?

6 A That is notifying Westoil which of their bids was
7 acceptable and not.

8 Q And then on page 2, the last sentence invited you to
9 update your bid proposals and submit final pricing by November
10 30th, 2020.

11 A Yes.

12 Q Do you see that?

13 A Yes.

14 Q Why did you give -- what was your understanding why you
15 give an opportunity to revise the bid?

16 A In given the information that your bid either was
17 acceptable or was not acceptable, we were giving everybody one
18 last chance to submit another bid.

19 Q Do you know if Westoil submitted a revised bid?

20 A They did.

21 Q Did the revised bid provide any meaningful change?

22 A It did not.

23 Q Turning your attention to page 3, what is page 3?

24 A This is the notification of acceptable versus unacceptable
25 to Millennium.

1 Q And then what is page 4?

2 A It is the same letter sent to Harley Marine New York.

3 Q And then what is page 5?

4 A The same letter sent to Harley Marine Gulf.

5 Q Are these true and accurate copies of the letters that you
6 sent out?

7 A Yes.

8 Q Were these kept in the ordinary course of business?

9 A Yes.

10 MR. HILGENFELD: At this point, Respondents would offer
11 Respondent Exhibit 25.

12 JUDGE SANDRON: One question. They're all dated November
13 9th, except the one to Westoil Marine. Do you know --

14 WITNESS: I think that was just an error. They were all
15 sent the same day.

16 JUDGE SANDRON: I see.

17 WITNESS: Just an error.

18 JUDGE SANDRON: So you -- so you -- that was also sent the
19 9th?

20 WITNESS: It was.

21 MR. HILGENFELD: Just so the record's clear, to Matt
22 Hathaway, as well.

23 JUDGE SANDRON: What's that?

24 MR. HILGENFELD: Matt Hathaway, as well.

25 JUDGE SANDRON: And which one was that one?



1 MR. HILGENFELD: The page 3.

2 WITNESS: Just the next one.

3 JUDGE SANDRON: Oh, I see.

4 MR. HILGENFELD: It was November 5th as well.

5 WITNESS: Yeah, that was just an error.

6 JUDGE SANDRON: Your answer is the same for that one?

7 WITNESS: Correct.

8 JUDGE SANDRON: Any objection?

9 MR. RIMBACH: No, Your Honor.

10 JUDGE SANDRON: The document is received.

11 **(Respondent Exhibit Number 25 Received into Evidence)**

12 BY MR. HILGENFELD:

13 Q Why were some of the letters signed and some of them not?

14 A Just an oversight.

15 Q In submitting a revised bid from November 9th to on or
16 about November 30th, did you give any direction or
17 communication to any of the submitting companies, directly or
18 indirectly, how they needed to change their bid to be within an
19 acceptable range?

20 A I did not.

21 Q Did you give any indication to the companies, directly or
22 indirectly, as to what would be required to submit within an
23 acceptable range?

24 A I did not.

25 Q To your knowledge, did you give anybody information -- did



1 you give Doug Houghton any information, directly or indirectly,
2 as to what would be within an acceptable range for the
3 companies?

4 A No.

5 Q Did you speak with Mr. Houghton during this period of time
6 until November 30th regarding any of the bid processes or the
7 numbers?

8 A I didn't speak to him about the bid process at any point
9 in time.

10 Q Aside from Mr. Godden, during this period of time, did you
11 speak to any other individuals about the bid process?

12 A No.

13 Q During this November timeframe, prior to November 30th,
14 did you have any other additional communications with the
15 submitting companies regarding the bid process?

16 A No.

17 Q And I believe you testified, but just to confirm, did you
18 receive a revised bid from Westoil in November of 2020?

19 A I did.

20 Q I'm going to turn your attention to Exhibit 27.

21 MR. RIMBACH: Is that Respondent's exhibit?

22 MR. HILGENFELD: Respondent's Exhibit 27.

23 MR. RIMBACH: Okay, thank you.

24 MR. HILGENFELD: I think you guys have that, but maybe
25 not.

1 BY MR. HILGENFELD:

2 Q Ms. Beckman, do you recognize -- are we all there?

3 MR. RIMBACH: Just give me one moment. All right, thank
4 you.

5 BY MR. HILGENFELD:

6 Q Ms. Beckman, do you have Respondent's Exhibit 27 in front
7 of you?

8 A I do.

9 Q What is Respondent's Exhibit 27?

10 A It is the revised bid from Westoil.

11 Q And who did you receive the revised bid from?

12 A Brian Vartan.

13 Q And pages 3 through 6, were these the attachments to this
14 email?

15 A Yes.

16 Q And what was -- did you -- was there a barge rate here
17 that was different from the initial daily rate that Mr. Vartan
18 had produced?

19 A Very slightly different.

20 Q Do you recall approximately what the difference was?

21 A Off the top of my head, it was, like, \$50.

22 Q Did that play any meaningful impact in the decision?

23 A It did not.

24 Q Did you create a new spreadsheet after receiving Mr.
25 Vartan's information?

1 A I did not.

2 MR. HILGENFELD: At this point, we would move to offer
3 Respondent's Exhibit 27.

4 JUDGE SANDRON: Mr. Rimbach, any objection?

5 MR. RIMBACH: No objection, Your Honor.

6 JUDGE SANDRON: Respondent's Exhibit 27 is received.

7 **(Respondent Exhibit Number 27 Received into Evidence)**

8 BY MR. HILGENFELD:

9 Q After receiving this email, did this -- did the change put
10 Westoil within the acceptable range?

11 A It did not.

12 Q Did -- did you receive any additional bids or revisions
13 from Westoil after that November 13th bid?

14 A No.

15 Q What did you do next as far as the bid process?

16 A I just gave -- well, actually, Matt Godden was on this
17 email, so Matt Godden had all the information at that point and
18 then it was up to him to make the decision.

19 Q Did you make -- did you and Mr. Godden have any additional
20 meetings that you can recall regarding the bid process in
21 November of 2020?

22 A Not in November of 2020, no.

23 Q Did you have any meetings or conversations in December of
24 2020?

25 A We did. We had one final conversation about it in early



1 December prior to me sending out the notification letters.

2 Q Do you recall how you spoke with Mr. Godden?

3 A It was either on the phone or Zoom. It might have been
4 Zoom.

5 Q Do you recall what time of day it was?

6 A I do not.

7 Q Do you recall what Mr. Godden said during that meeting?

8 JUDGE SANDRON: Just -- is anybody else in the
9 conversation?

10 WITNESS: Just me and him.

11 BY MR. HILGENFELD:

12 Q Do you recall -- what do you recall Mr. Godden saying
13 during that meeting?

14 A He said that he wanted me to send out letters notifying
15 the bidders if their bid was ultimately successful or not.

16 Q Do you recall Mr. Godden saying anything else during that
17 meeting?

18 A Not particularly.

19 Q Do you recall saying anything during that meeting?

20 A Not particularly.

21 Q How long did that meeting last?

22 A Probably less than 20 minutes.

23 Q Who was the winning bid for LA/Long Beach?

24 A That was Olympic Tug & Barge.

25 Q Was everyone notified of that result?



1 A They weren't notified -- they were only notified if their
2 bid was successful or not.

3 Q I'm going to turn your attention to GC 135. Do you have
4 that in front of you? General Counsel's Exhibit 135. It's
5 going to be in one of those big books probably.

6 JUDGE SANDRON: I think I need to see that. I don't think
7 I have that exhibit readily available. I have the Respondent's
8 books, but I don't believe I have the exhibits from General
9 Counsel. Yes, thank you.

10 MR. HILGENFELD: We have to find it, Jen. Hold on.

11 MR. RIMBACH: I have an extra copy.

12 MR. HILGENFELD: Oh, thank you, Thomas.

13 BY MR. HILGENFELD:

14 Q Do you recognize GC 135?

15 A I do.

16 Q What is GC 135?

17 A It's the notification letter to Westoil.

18 Q And who prepared this letter?

19 A I did.

20 Q And in this letter it talks about the board was based --
21 the bid of the award was based on the following criteria --
22 listed criteria. Do you see that section?

23 A I do.

24 Q Did you play any part in determining the use of that piece
25 of that criteria aside from what you've testified to?

1 A No.

2 Q Do you know how Mr. Godden utilized that criteria based on
3 his decision?

4 A I do not.

5 Q The third paragraph, your bid barge crewing in LA/Long
6 Beach was not accepted due to pricing and a new vendor will
7 start manning on January 29th, 2021. Where did you get that
8 information from?

9 A Matt Godden.

10 Q Did you know what work the new vendor was going to be
11 doing?

12 A I did not.

13 Q Did you know what work was entailed in this bid process
14 for any of the regions?

15 A Not specifically, no.

16 Q Was there any communication about what work was being up
17 for bid or was being reviewed by Mr. Godden?

18 A Just the specific regions, not work within the regions,
19 no.

20 JUDGE SANDRON: And who was the new vendor going to be?

21 WITNESS: Olympic Tug & Barge, but that was not -- that
22 was not detailed in the letter.

23 JUDGE SANDRON: Right.

24 WITNESS: Yeah.

25 JUDGE SANDRON: But that was what was going to happen.



1 WITNESS: Correct. Correct.

2 JUDGE SANDRON: Thank you.

3 BY MR. HILGENFELD:

4 Q And did you know -- did you have any understanding as to
5 what contracts would be included?

6 A No.

7 Q Did Mr. Godden have any conversations with you as to what
8 contracts would be included?

9 A No.

10 Q Did Harley Marine Gulf and Harley Marine New York get
11 send -- receive similar letters to the one received by Westoil?

12 A They did.

13 Q Did Olympic Tug & Barge -- if you look at GC 136. Thomas,
14 do you have an extra one of that by chance?

15 MR. RIMBACH: Yes.

16 BY MR. HILGENFELD:

17 Q And do you recognize GC 136?

18 A I do.

19 Q And the answers that you provided regarding the
20 understanding of who was going to be in the port, is that true
21 for Olympic Tug & Barge as well as it was with Westoil?

22 A Yes.

23 Q After sending this letter on December 9th, 2020 regarding
24 this first bid process, did you have any additional
25 communications with Mr. Godden regarding this bid process?

1 A No.

2 Q Did you have any communications with Mr. Doug Houghton
3 after this December 9th, 2020 letter was sent out about the bid
4 process?

5 A No.

6 Q After this was sent out, did you have any communications
7 with Mr. Titland regarding the bid process?

8 A I remember he called me, maybe the same day, maybe the
9 next day after this letter went out.

10 Q And where were you at, to the best of your recollection?

11 A I believe I was in Houston seeing customers.

12 Q And was -- how did Mr. Titland get ahold of you?

13 A He called me.

14 Q What did Mr. Titland -- was anyone else on the phone call?

15 A No.

16 Q What did Mr. Titland say to you?

17 A He asked what work this would be entailing, asked
18 specifically if he would be crewing the new Chevron time-
19 chartered pieces of equipment and what that would look like,
20 and I simply told him that I was not sure what pieces of
21 equipment, what contracts this would be servicing.

22 Q What did you understand the Chevron work to be?

23 A It was the contracts that came with the barges that we
24 were purchasing from Saltchuk.

25 Q Did the -- had the Saltchuk Centerline sale gone through



1 at that time?

2 A It had not.

3 Q Had you been aware of the potential sale prior to the
4 conversation with Mr. Titland?

5 A I had been, yes.

6 Q And do you recall anything else that Mr. Titland said in
7 that conversation?

8 A Not specifically.

9 JUDGE SANDRON: Did you mention Chevron at all by name in
10 that conversation?

11 WITNESS: I did not, but Mr. Titland did. He asked,
12 because he actually, he knew as well. There was a small group
13 of people that knew about the sale of our ship assist business
14 and the purchase of the Saltchuk assets with the Chevron
15 contract, so he called specifically to ask if Chevron was
16 related to this RFP process or what other work it would entail.

17 JUDGE SANDRON: I see.

18 BY MR. HILGENFELD:

19 Q Had Westoil, to your knowledge, ever performed Chevron
20 work prior to the acquisition?

21 A Not to my knowledge.

22 Q Had any Centerline companies, prior to the acquisition,
23 performed the Chevron work to your knowledge?

24 A Not to my knowledge.

25 Q Do you recall Mr. Titland saying anything else in that



1 conversation?

2 A Not of note.

3 Q How long was that conversation?

4 A Probably 10 or 15 minutes.

5 Q Do you recall any other conversations that you had with
6 Mr. Titland after that regarding the bid process?

7 A No.

8 Q After December 9th, 2020, did you have any part or made
9 any decision regarding who performed what work in the LA/Long
10 Beach harbor?

11 A None.

12 Q Were you involved in any communications or information or
13 conversations regarding who would be performing work in the
14 LA/Long Beach harbor?

15 A No.

16 Q Ms. Beckman, do you know if Leo Marine is a subsidiary of
17 Olympic Tug & Barge?

18 A It is.

19 Q Did you have any decision in the assignment of any work by
20 Olympic Tug & Barge or Leo Marine?

21 A No.

22 Q Does your office designate what company you work for?

23 A Yes.

24 Q What does it say?

25 A Centerline Logistics.

- 1 Q Who's your supervisor?
- 2 A Doug Houghton.
- 3 Q Who does Doug Houghton work for?
- 4 A Matt Godden.
- 5 Q Who does he -- what company does he work for?
- 6 A Oh, sorry. Centerline Logistics.
- 7 Q Do you supervise anyone for Centerline Logistics?
- 8 A I do not.
- 9 Q Do you supervise anyone for Westoil Marine Services?
- 10 A I do not.
- 11 Q Do you supervise anyone for Leo Marine Services?
- 12 A No.
- 13 Q Do you supervise anyone for Olympic Tug & Barge?
- 14 A No.
- 15 Q Do you assign -- do you supervise anyone for Millennium
- 16 Maritime, Inc.?
- 17 A No.
- 18 Q Do you assign work to anyone at Westoil Marine Services?
- 19 A No.
- 20 Q Do you assign work to anyone at Leo Marine Services?
- 21 A No.
- 22 Q Do you assign work to anyone at Olympic Tug & Barge?
- 23 A No.
- 24 Q Do you supervise anyone at Harley Marine Financing?
- 25 A No.

1 Q Do you assign work to anyone at Harley Marine Financing?

2 A No.

3 JUDGE SANDRON: Do you supervise anyone?

4 WITNESS: I do not.

5 BY MR. HILGENFELD:

6 Q Do you supervise anyone for any Centerline affiliated
7 company?

8 A No, I do not.

9 Q Do you assign work to anyone at any Centerline affiliated
10 company?

11 A No.

12 Q Have you ever recommended disciplining anyone at Westoil
13 Marine Services?

14 A No.

15 Q Have you ever recommended disciplining anyone at Leo
16 Marine Services?

17 A No.

18 Q Have you ever recommended disciplining anyone at Olympic
19 Tug & Barge?

20 A No.

21 Q Do you play any part in the decision to determine wage
22 rates for anyone employed at Westoil?

23 A No.

24 Q Do you play any part in determining wage rates for anyone
25 at Leo Marine Services?

1 A No.

2 Q Do you determine wage rates for anyone at Olympic Tug &
3 Barge?

4 A No.

5 Q Have you ever recommended a wage rate increase or
6 recommendation or commendation for anyone at Westoil, Leo
7 Marine, or Olympic Tug & Barge?

8 A No.

9 Q In chartering the contracts, do you exercise any
10 discretion when you determine what operating company will
11 perform work on a specific chartered contract?

12 A No.

13 Q How is that determined?

14 A I'm not sure.

15 Q Do you have a role in whether the different companies,
16 such as Westoil, Leo Marine, or Olympic Tug & Barge pay for the
17 services or use of equipment?

18 A I do not.

19 Q Do you have a role in whether Centerline pays for an
20 apportionment of its rent?

21 A I do not.

22 Q Do you have a role in whether any of the operating
23 companies pay for an apportionment of their rent?

24 A No.

25 Q Do you have a role in whether any of the companies pay for



1 any services?

2 A No.

3 MR. HILGENFELD: Your Honor, with the understanding that
4 we will document that we've put in for admission that we'll
5 give to General Counsel, we would rest with Ms. Beckman at this
6 time.

7 JUDGE SANDRON: Okay. Are you ready for beginning cross-
8 examination?

9 MR. RIMBACH: If we could have, like, maybe five or ten
10 minutes for a break, Your Honor?

11 JUDGE SANDRON: Yes.

12 MR. RIMBACH: For the afternoon.

13 JUDGE SANDRON: All right. We'll take our afternoon break
14 now then for about, say, 15 minutes and we'll come back.

15 MR. HILGENFELD: Perfect. Thank you, Your Honor.

16 (Off the record at 3:13 p.m.)

17 JUDGE SANDRON: Okay, we're back on the record. Ms.
18 Yasserri, I understand you wish to make a description of General
19 Counsel's Exhibit 123 on the record?

20 MS. YASSERI: Yes. Thank you, Your Honor. General
21 Counsel's Exhibit 123 is a January 10th, 2022 position
22 statement from Centerline consisting of 20 pages.

23 JUDGE SANDRON: Okay, that's on the record. Are we ready
24 then for cross-examination?

25 MR. RIMBACH: Yes, Your Honor.

1 MR. HILGENFELD: I'm sorry, were you just identifying it
2 for the record?

3 MR. RIMBACH: Could we go off the record for a second?

4 JUDGE SANDRON: Off the record.

5 (Off the record at 3:36 p.m.)

6 JUDGE SANDRON: Cross-examination.

7 **CROSS-EXAMINATION**

8 Q BY MR. RIMBACH: Good afternoon, Ms. Beckman.

9 A Good afternoon.

10 Q You are currently employed by Centerline?

11 A I am.

12 Q Have you ever been employed by any other company since you
13 began working for Centerline?

14 A Outside of Centerline?

15 Q Yes.

16 A No.

17 Q And you said you've been the sales and chartering manager
18 since 2019?

19 A Correct.

20 Q Do you remember what month you started as sales and
21 chartering manager?

22 A I want to say February.

23 Q And is that when you actually first started working for
24 Centerline or did you have a position at Centerline before
25 that?

1 A I had a position at Centerline before that.

2 Q When did you first start working for Centerline in any
3 position?

4 A In June of 2009.

5 Q What was your first position when you started working
6 there?

7 A I was a marketing coordinator.

8 Q How long were you a marketing coordinator?

9 A Maybe --

10 JUDGE SANDRON: As best as you can remember.

11 A Okay. I mean, seven years-ish.

12 Q About 2016, give or take a year?

13 A Yeah. Give or take a year or two, yeah.

14 Q What was your position -- what did your position become
15 around that time in 2016-ish?

16 A Then I was special projects manager. I think that was my
17 title, in between the sales and chartering job.

18 Q After you were a special projects manager, your next
19 position was the sales and chartering manager position?

20 A Yes.

21 JUDGE SANDRON: Was this always in the same location?

22 WITNESS: Yes.

23 MR. HILGENFELD: Just so the record's clear, prior to --
24 this is not disputed, but prior to approximately 2020,
25 Centerline was known as Harley Marine Services.

1 WITNESS: So yes, it was the same company. Change of
2 names and things.

3 MR. HILGENFELD: That's been -- we've already had that on
4 the record a number of times.

5 MR. RIMBACH: I won't ask you to explain that.

6 WITNESS: Okay.

7 MR. RIMBACH: Thanks.

8 JUDGE SANDRON: Thank you.

9 BY MR. RIMBACH:

10 Q You are paid by Centerline?

11 A I am.

12 Q Do you receive paychecks or paystubs?

13 A I can access them online.

14 Q Do your paystubs say Centerline?

15 A They do.

16 Q Have you ever received a paycheck from Harley Marine
17 Financing?

18 A No.

19 Q Have you ever been paid or compensated by Harley Marine
20 Financing in any other way?

21 A No.

22 Q Doug Houghton is your direct supervisor?

23 A He is.

24 Q Do you have any other supervisors or managers?

25 A Not direct.

1 Q Do you have any indirect supervisors or managers?

2 A No. I mean, there's higher ups that I, you know --

3 Q Sometimes interact with?

4 A Yeah. Sorry, I don't know how else to say that, but no, I
5 only have one direct supervisor.

6 Q Do you communicate with Mr. Houghton on a daily basis?

7 A Maybe not every day, but frequently.

8 Q About how many times a week?

9 A Maybe five times a week, but maybe not once per day.

10 Q What do you communicate with him about generally?

11 A He'll call and ask if a piece of equipment is moving, if
12 it's not moving, if there's any potential work for it. He
13 mainly calls to ask about potential work on equipment.

14 Q And when you're referring to equipment, is that equipment
15 that is operated by Westoil Marine Services, Leo Marine
16 Services, and Olympic Tug & Barge?

17 A It's -- it's any piece of equipment.

18 Q So would it include all of those entities?

19 A Yes.

20 Q Any other entities besides those three?

21 A You know, to back it up just a little bit. When I'm
22 entering into charters with customers, I'm really doing that
23 between Harley Marine Financing and the customer. I don't look
24 at it as a piece of equipment operated by an operating company
25 because that's just -- I don't have any input in that. So

1 it -- I don't want to say no or yes to your question because it
2 could be any piece of a company, but yeah, I don't really look
3 at it as the operating company.

4 Q Do you keep Mr. Houghton updated on your work activity?

5 A If he asks, but I don't, like, regularly check in with him
6 just to let him know what I'm doing, no.

7 Q So you didn't have any conversations with him about the
8 invitation to tender process?

9 A No.

10 Q You mentioned the equipment that Harley Marine uses to
11 service customers, and you mentioned that that equipment, it is
12 operated -- some of that equipment that you input information
13 or deal with does include equipment that is operated by
14 Westoil?

15 A Yes.

16 Q Westoil had operations in the Los Angeles and Long Beach
17 harbors in November of 2020, correct?

18 A Yes.

19 Q And that equipment that you enter in information for on
20 behalf of Harley Marine Financing, that includes equipment that
21 is operated by Olympic Tug & Barge; is that right?

22 A Yes.

23 Q And Olympic Tug & Barge did not have operations in the Los
24 Angeles and Long Beach harbors in November 2020 did it?

25 A It's had operations there for many, many years. It has

1 equipment coming in and out for -- for a long time.

2 Q So it did in November 2020?

3 A It did.

4 Q What kind of equipment?

5 A Mainly offshore equipment. So that's -- it's still tug
6 and barges and it's still doing terminal transfers, lightering,
7 a lot of the same functions.

8 Q So it was only terminal transfers and lightering?

9 MR. HILGENFELD: Objection. Mischaracterizes the
10 testimony.

11 JUDGE SANDRON: Well, I think it's cause --

12 MR. HILGENFELD: Well, but he asked a question. She gave
13 an answer.

14 JUDGE SANDRON: Yeah, you're right.

15 MR. HILGENFELD: But he mischaracterized her answer.

16 MR. RIMBACH: I'm asking to clarify, Your Honor.

17 WITNESS: I wouldn't limit it to that, but I think that's
18 the bulk of the work it does there, but I wouldn't limit it to
19 that. But I couldn't -- I couldn't name every type of job
20 they've done over the past ten years.

21 BY MR. RIMBACH:

22 Q Are you aware of any other type of work that Olympic Tug &
23 Barge was performing in the Los Angeles and Long Beach harbors
24 at that time?

25 A I mean, they could have done -- they could have bunkered.

1 They could have debunkered. They could have lightered or
2 reverse lightered. I -- I'm -- I'm not sure. I couldn't name
3 specifically either way.

4 Q So you don't know about any other types of activity?
5 I'll -- I'll withdraw the question.

6 JUDGE SANDRON: Yeah. Maybe just -- do you know for a
7 fact what work they performed before December 2020, you know,
8 to your own knowledge?

9 WITNESS: I mean, I know they've done terminal transfers.

10 JUDGE SANDRON: Okay.

11 WITNESS: I know they've done lighterings. I believe
12 they've done bunkerings, but I don't think that's -- that's not
13 the bulk of the work, but I believe they have.

14 JUDGE SANDRON: You believe they did additional types of
15 work.

16 WITNESS: Yes.

17 BY MR. RIMBACH:

18 Q In November of 2020, Harley Marine Gulf did not have
19 operations in the Los Angeles or Long Beach harbors did it?

20 A It did not.

21 Q And Harley Marine New York did not have operations in the
22 Los Angeles and Long Beach harbors, correct?

23 A It did not.

24 Q Do you work full-time for Centerline?

25 A I do.



1 Q Are you a salaried employee or an hourly employee?

2 A I'm salaried.

3 Q How do you keep track of your hours when you work for
4 Centerline?

5 A I mean, I don't really keep track. I -- I work a regular
6 schedule, but I don't really track my hours, no.

7 Q Do you have regular hours?

8 A I do.

9 Q What are those?

10 A Typically 7 to 4.

11 Q So you don't have a timesheet?

12 A No.

13 Q You don't clock in or out?

14 A No.

15 Q When you're performing work on behalf of Harley Marine
16 Financing, do you keep track of the number of hours you spend
17 performing that work specifically?

18 A No.

19 MR. HILGENFELD: Objection. Mischaracterizes the
20 evidence.

21 JUDGE SANDRON: Well, I think he's asking it as a
22 question.

23 MR. HILGENFELD: He made an -- he made an assumption in
24 his question then asked a question. It's the assumption that's
25 wrong.

1 JUDGE SANDRON: With what?

2 MR. HILGENFELD: He made an assumption that she'd worked
3 for Harley Marine Financing. The testimony was she did not
4 work for Harley Marine Financing, that Centerline acts as a
5 manager company. By providing the assumption, he's
6 mischaracterizing the evidence, which is misleading and
7 improper causation.

8 JUDGE SANDRON: Well, why don't you rephrase that then?

9 MR. RIMBACH: Sure.

10 JUDGE SANDRON: Avoid that issue.

11 BY MR. RIMBACH:

12 Q You mentioned that you perform certain duties on behalf of
13 Harley Marine Financing, correct?

14 A Yeah, yes.

15 Q When you perform those duties, do you keep track of the
16 number of hours you spend specifically performing those duties
17 for Harley Marine Financing?

18 A No.

19 Q What kind of duties do you perform for Harley Marine
20 Financing?

21 A Mainly entering into the contracts with customers.

22 Q What percent of your time is spent doing that?

23 A Gosh, it's hard to say because customer interaction is the
24 vast majority of my job, but you know, customer retention and
25 satisfaction, I wouldn't say is directly related to Harley

1 Marine Financing. But negotiating the contracts are on behalf
2 of -- so I mean, if we're just talking about negotiating
3 contracts, I would say 20 percent.

4 Q And what about interacting with customers of Harley Marine
5 Financing in general? What percent of the time would that
6 take?

7 A Probably -- probably 60 to 70 percent.

8 Q When you're trying to retain customers like you mentioned,
9 is that on behalf of Centerline or Harley Marine Financing?

10 A I don't know. I -- I just -- you know, I -- I interact
11 with the customers. I couldn't tell you.

12 Q That's okay. Thank you. You also don't -- let me
13 rephrase. For certain contracts that are being -- where the
14 work is being performed by a subsidiary like Westoil, do you
15 keep track of that time at all with respect to noting that that
16 work is being performed by Westoil?

17 A No.

18 Q And would that be the same answer for Olympic Tug & Barge
19 and Leo Marine Services?

20 A Correct.

21 Q Do you use Slack at work, the messaging app?

22 A I do occasionally.

23 JUDGE SANDRON: What's the acronym?

24 MR. RIMBACH: Slack. It's not an acronym, it's just,
25 like, Microsoft Teams or Skype or Zoom.

1 JUDGE SANDRON: Well, why don't you spell it so we have it
2 on the record?

3 MR. RIMBACH: Sure. S-L-A-C-K.

4 JUDGE SANDRON: All right.

5 BY MR. RIMBACH:

6 Q Are there any specific employees, other employees that you
7 use Slack to communicate with?

8 A Gosh, not specific -- I mean, you want me to list them
9 off? I mean, I don't use it a ton. It's mainly for short
10 answers, you know, kind of things. I prefer Zoom or phone
11 calls for real interactions, but yeah, I mean, I use it
12 occasionally with other employees, yeah.

13 Q Have you used Slack to communicate with Mr. Godden?

14 A Ever? Sure, yeah.

15 Q Did you use Slack to communicate with him about the
16 invitation to tender process?

17 A No, that was always over Zoom. Or sorry, I should say or
18 a phone call.

19 Q When you communicate with customers of Harley Marine
20 Financing, is that directly with those customers?

21 A Yes.

22 Q Do you identify yourself as a representative of
23 Centerline?

24 A I'm a Centerline employee, yeah.

25 Q Do you also identify yourself as a representative of



1 Harley Marine Financing when you interact with those customers?

2 A I don't identify myself as such verbally, but I always --
3 within the contract negotiation period, it always comes up that
4 the counter party is Harley Marine Financing and I'm
5 negotiating it with the, so I guess non-directly, yes, it's
6 implied.

7 Q You mentioned that you have an office at the Centerline
8 building in the LA/Long Beach harbor.

9 A Yes.

10 Q How close is Brian Vartan's office to your office?

11 A It's -- it's pretty close. It's probably the distance
12 that we are.

13 JUDGE SANDRON: Would you say about 10-15 feet?

14 WITNESS: Yeah, there's a hallway that separates our
15 offices right now, yeah.

16 BY MR. RIMBACH:

17 Q Is there anything in that office building that designates
18 certain sections for Centerline versus Leo Marine Services
19 versus Olympic Tug & Barge and Westoil?

20 A Everyone's name placard on their, either their cubicle or
21 on their office door, has what company they work for, yes.

22 Q Are there any designated sections though for each company,
23 or is everyone kind of scattered around?

24 A It's -- there's sections, loosely. It's not a perfect
25 designation just the way the office is laid out. It's not a

1 perfect designation, no.

2 Q Can you describe the layout and where offices are
3 designated for each company that has employees there as best as
4 you can?

5 A Yeah. Okay, so kind of in the left corner there's a
6 safety advisor who's a Centerline employee. Then there's Matt
7 Hathaway, who is a Westoil Tug Service employee. Then there's
8 myself. Then there's a hallway. Then there's Brian Vartan,
9 who's designated Leo. Then kind of curving, there's a
10 Centerline employee and then there's Anthony Lobro, who's also
11 a Centerline employee. And then on the other side is dispatch.
12 So in my mind they're more designated, but yeah.

13 Q Thank you.

14 A Yeah, sorry. That was kind of juggle to answer. I
15 apologize.

16 Q I know it's hard to describe that kind of thing. It was
17 only Mr. Godden who gave you instructions on the invitation to
18 tender process?

19 A Correct.

20 Q Does anyone else give you instructions or direction with
21 respect to your work or your duties for Harley Marine
22 Financing?

23 A No, pretty much just -- just Mr. Godden.

24 Q Does Mr. Houghton provide direction or supervision over
25 your work involving Harley Marine Financing?

1 A I -- I wouldn't say -- I would say he's less involved in
2 the, like, contract negotiations with respect to the ones I've
3 been involved with, so if we're just talking about the charter,
4 like, the charter parties, I would say I interact with him some
5 but more Mr. Godden.

6 Q And when you perform your duties for Harley Marine
7 Financing, you use your same office that you use for
8 Centerline?

9 A Yes.

10 Q And you use the same computer?

11 A Yes.

12 Q And you use the same computer network?

13 A Yes.

14 JUDGE SANDRON: Now, the office supplies and office
15 equipment, is that all Centerline or do any of them have
16 separate equipment?

17 WITNESS: That is one -- one area, one communal area, for
18 office supplies, yeah.

19 JUDGE SANDRON: I see. And office equipment?

20 WITNESS: Yeah, it's one.

21 JUDGE SANDRON: Thank you.

22 BY MR. RIMBACH:

23 Q Do you have Respondent's Exhibit 17 in front of you?

24 JUDGE SANDRON: Where's the book?

25 MR. RIMBACH: I made you a copy as well.

1 A It's just the -- the tender without any responses, correct?

2 Q Yes.

3 A Yeah, I do have that.

4 Q So you said this took about two weeks to prepare?

5 A It did.

6 Q And do you know if Harley Marine Financing was billed for
7 the time you spent putting this together?

8 A I don't know.

9 Q Mr. Godden was the only one who reviewed this?

10 A Correct.

11 Q He didn't make any changes to it; is that right?

12 A Correct. No changes were made.

13 Q I believe your testimony was that you did not know what
14 work was included as part of this invitation to tender process;
15 is that right?

16 A Correct.

17 Q But you included all of the equipment that was being
18 operated in Los Angeles and Long Beach harbors?

19 A Yes.

20 Q Why did you include all of the equipment listed in here?

21 A That was the equipment that was in each port at the time,
22 and it was just to serve as an example of the type of equipment
23 that could be awarded.

24 Q So you did not provide any indication or direction with
25 respect to how much of the work was part of this invitation of

1 tender?

2 A No.

3 Q Why not?

4 A I wasn't directed to.

5 Q For all of the customers being serviced in Los Angeles and
6 Long Beach harbors, the six barges here -- listed here Dale
7 Frank and Elizabeth, David Fanning, Lily Blair, HMS 2608, and
8 the Bernie Briere, those were the only barges that services
9 those customers, correct?

10 A We weren't bidding customers. This was just an indication
11 of what bunker barges were permanently stationed in LA at the
12 time.

13 Q Were there any other barges there performing work for
14 customers in the Los Angeles and Long Beach harbors at that
15 time?

16 A There was OTB equipment that was there, that off-shore
17 work that came in and out, but none that was permanently
18 stationed there.

19 Q And when you say off-shore work, that was lightering and
20 terminal to terminal transfers?

21 A Correct.

22 Q Off-shore work does not include bunkering?

23 A I mean, maybe someone could categorize it as that, but I
24 don't. I would say offshore work is terminal transportation.

25 Q Did Matt Godden instruct you whether or not to issue the

1 invitation to tender to Starlight Marine Services?

2 A We discussed it on the phone not to since they were going
3 to be sold to Saltchuk soon anyways.

4 Q What did he tell you exactly with respect to Starlight
5 Marine Services?

6 A I couldn't tell you exactly what he said, but that was the
7 gist of the discussion.

8 Q Out of the barges that are listed here in the invitation
9 to tender on page 5 --

10 A Um-hum.

11 Q -- for Los Angeles and Long Beach --

12 A Um-hum.

13 Q Do you know what customers those barges performed work for
14 at that time in November 2020?

15 A November of 2020 there was Glencore, Minerva, and
16 Peninsula.

17 Q Did you issue the invitation to tender to any non-
18 Centerline company?

19 A No.

20 Q Do you know why not?

21 A I do not.

22 Q Did Mr. Godden ever tell you one way or the other or give
23 you direction with respect to whether the invitation to tender
24 would be issued to non-Centerline companies?

25 A It was never brought up, but he told me which companies to

1 send it to specifically.

2 Q And Harley Marine Gulf is located in Houston or
3 Channelview?

4 A Just outside of Houston, yes.

5 Q Channelview is a town outside of Houston?

6 A Correct.

7 Q Okay. And Harley Marine Gulf performs bunkering services
8 all along the Gulf Coast; is that right?

9 A Correct.

10 Q And that includes the ports of Houston, Galveston,
11 Beaumont, and Port Arthur?

12 A I believe that's correct. Corpus Christi, too. It kind
13 of -- it changes, but yeah.

14 Q And also New Orleans and Louisiana?

15 A I don't know if we have equipment still there or not, but
16 we did at one point.

17 Q Did Mr. Godden tell you specifically why the operations on
18 the Gulf Coast that were being operated by Harley Marine Gulf,
19 why those were not included in the invitation to tender?

20 A He did not.

21 Q How did you know not to include it in the invitation to
22 tender a packet then?

23 A He --

24 JUDGE SANDRON: Well, I think she said he told her which
25 ones to --

1 THE WITNESS: Right. So I guess --

2 JUDGE SANDRON: -- (indiscernible, simultaneous speech).

3 MR. RIMBACH: Okay.

4 THE WITNESS: -- he said we're bidding these areas.

5 JUDGE SANDRON: Right.

6 A He didn't specifically say we're not bidding the Gulf,
7 but --

8 Q BY MR. RIMBACH: Okay.

9 A -- that was implied by saying these are the areas we are,
10 yeah.

11 Q Understood. Thank you. When did Mr. Godden first contact
12 you to discuss the invitation and tender process?

13 A It was mid-October. Oh, sorry. It was early October.
14 I'm sorry.

15 Q You said early October?

16 A Yeah.

17 Q And he asked you to create an invitation to tender to any
18 interested company, correct?

19 A No. He told -- he -- the specific companies, not any
20 interested. They didn't know about the RFP prior to being sent
21 the submission -- prior to being sent the package.

22 MR. RIMBACH: Might I approach, Your Honor?

23 JUDGE SANDRON: Yes.

24 MR. RIMBACH: I'm showing him -- showing Ms. Beckman the
25 declaration that she provided.



1 THE WITNESS: Thank you.

2 Q BY MR. RIMBACH: Okay. Do you recall submitting a
3 declaration on behalf of Centerline for a National Labor
4 Relations Board case that you signed on January 9th, 2022?

5 A I do.

6 Q And was this accurate at the time that you signed it?

7 A It was, yes.

8 Q If you see paragraph two, could you please read the second
9 sentence out loud?

10 A "On behalf of HMF, I was asked to create an invitation to
11 tender to bid for any interested party, monitor the bids,
12 ensure compliance with the process, and to provide the bid
13 information to Godden."

14 Q I just want to note that it says "any interested company"
15 not interested party. I think you said interested party by
16 mistake.

17 A Oh, sorry. Sorry.

18 Q That's okay.

19 A Interested company.

20 Q Okay. Thank you.

21 A I think the --

22 MR. RIMBACH: Well, I don't have a question.

23 JUDGE SANDRON: Why are you --

24 THE WITNESS: Oh, okay. Sorry.

25 MR. RIMBACH: Yeah. Sorry.



1 JUDGE SANDRON: Mr. Hilgenfeld can --

2 THE WITNESS: Okay. Sorry.

3 JUDGE SANDRON: -- if he has any follow-up questions he
4 can --

5 THE WITNESS: Okay.

6 JUDGE SANDRON: -- ask them.

7 Q BY MR. RIMBACH: So you didn't determine yourself which
8 companies were interested in submitting an invitation to
9 tender?

10 A No.

11 Q It was Mr. Godden --

12 A I mean --

13 Q -- who decided who you should --

14 A Yes.

15 Q -- send?

16 A Yes.

17 Q Okay. Thank you. And I believe you testified that this
18 was the first time that you ever prepared an invitation to a
19 tender like this, correct?

20 JUDGE SANDRON: Did Mr. Godden ever say anything about why
21 he decided to initiate this process at that time?

22 THE WITNESS: I believe these were the highest cost ports
23 to operate is what he indicated to me.

24 Q BY MR. RIMBACH: Did he specifically say that to you?

25 A I don't know. I couldn't tell you if those were the exact

1 words. But that's what the -- my feeling about it was.

2 Q Did Mr. Godden instruct you exactly what to include in the
3 invitation to tender?

4 A He instructed me to -- to -- yes. List the equipment
5 that's currently in the ports, the historical volumes, things
6 of that nature. Yes.

7 Q Did he tell you what deadlines to include in the
8 invitation to tender?

9 A Not specifically. I -- I think I proposed the deadlines
10 and he said it looked okay.

11 Q When you issued the invitation to tender on October 14,
12 2020, did you notify the Inlandboatmen's Union of the Pacific
13 that you were issuing this invitation tender?

14 A No, because I wasn't contracting with the Inlandboatmen's
15 Union. I was going out a bid to operating companies, not
16 unions.

17 Q Are you aware of anyone else from Centerline who contacted
18 the IBU about the invitation to tender on or before October 14,
19 2020?

20 A I didn't -- I didn't ask the bidders about their numbers
21 or their labor pools, so.

22 Q So are you aware of anyone else acting on behalf of Harley
23 Marine Financing who contacted the IBU about the invitation
24 tender on or before October 14, 2020?

25 A Not that I heard of, but I don't -- again, that -- some --

1 no one would notify me of that kind of thing.

2 Q I just want to make sure that this is clear for the
3 record. But on page 4 of the invitation to tender, it refers
4 to attachment one. The letter of acknowledgment?

5 A Uh-huh.

6 Q Is that -- on page 11?

7 A Yes. That's -- that was just the letter that I asked
8 people to submit, but they just received the bid. So no one
9 could, you know, claim that they didn't get it or anything of
10 that -- you know.

11 Q And then attachment to the bid submission letter, that is
12 pages 12 and 13?

13 A Correct.

14 Q And then attachment for schedule of rates that looks like
15 it's pages 14 through 18; is that right?

16 A That's 14 through 17. And then attachment four is page
17 18.

18 Q Got it. Thank you. And when you emailed this invitation
19 to tender the -- the schedule of rates documents those were
20 Excel files or --

21 A They were Excel files.

22 Q Okay. Thank you. And then on page 19, that's the
23 clarification reference that you were referring to?

24 A Yeah, I in the first round I incorrectly referred to
25 attachment four as attachment six. So I was just clarifying

1 that there was only four attachments not six.

2 Q Got it. This was the only document that was issued to
3 the -- to the subsidiaries that explains the invitation to
4 tender bid requirements?

5 A Correct.

6 Q Did you notify any of the subsidiaries that they would be
7 able to revise their bids?

8 A Every single one.

9 Q And did you notify them at the time that you sent the
10 invitation to tender on October 14, 2020, or is that only
11 later?

12 A That was on November 9th that they were all welcome to
13 revise their bid.

14 Q And on November 9th, was that the first time you notified
15 them that they could revise their bids?

16 A Well, there was some discussions between the first
17 submission on -- on the 23rd, but more clarifying questions
18 like burden rates or managerial oversight, things of that
19 nature. So -- but so I didn't give people the option to revise
20 their base numbers. It was just clarifying questions. And
21 then October 9th -- sorry, yeah November 9th was the date that
22 everyone was given the chance to revise their numbers.

23 Q And on November 9th, 2020, that was the first time you
24 notified the companies that they would be able to revise their
25 bids?

1 A Yes.

2 Q Prior to issuing this letter of invitation on October 14,
3 2020 did Mr. Godden tell you that the companies would be able
4 to revise their bids later?

5 A I don't know if we touched on that specifically. No.

6 Q When did he tell you that the companies would be able to
7 do that?

8 A It was probably during the Zoom call as we went over the
9 spreadsheet -- the comparison spreadsheet.

10 Q That was the first week of November.

11 A I believe that was November 4th or 3rd. Yeah, somewhere
12 in there.

13 Q What did he tell you exactly when he told you that the
14 companies would be able to revise their bids? Just as best as
15 you can remember.

16 A Yeah, I don't remember specifically, but we had gone
17 through the Excel sheet. We had determined acceptable versus
18 unacceptable bids. And then he instructed me to let the
19 bidders know if their bids were acceptable or unacceptable.
20 And then then give them a couple of weeks to revise.

21 JUDGE SANDRON: Okay. So it would it be accurate to say
22 that the ones who were clearly not competitive were eliminated
23 and then the decisions were made based on those that were more
24 competitive?

25 THE WITNESS: Only in December but not prior to.



1 JUDGE SANDRON: Oh, I see. It was December.

2 THE WITNESS: Yeah. It was December, yeah. No, a
3 decision was not made in November.

4 JUDGE SANDRON: Oh, I see.

5 THE WITNESS: We -- we were waiting for the revised bids.

6 JUDGE SANDRON: Oh, I see --

7 THE WITNESS: Yeah.

8 JUDGE SANDRON: You waited before any --

9 THE WITNESS: Yes, of course. Of course.

10 JUDGE SANDRON: -- decisions were made.

11 Q BY MR. RIMBACH: Can you just take a look at Respondent's
12 Exhibit 20? I'll save this for later.

13 A Okay.

14 Q But just for the record, I'm displaying GC Exhibit 217 on
15 the TV monitor? So I believe this is the -- starting on page
16 2, this is the first bid submission letter submitted --
17 submitted to you by Sven Titland on behalf of Olympic Tug &
18 Barge; is that right?

19 A Yes, it is.

20 Q And on page 3, it looks like he submitted it on October
21 23rd, 2020; is that right?

22 A Yes.

23 Q And do you have Respondent's Exhibit 31 in front of you?

24 A I do.

25 Q And this was the revised bid that Sven Titland submitted



1 to you?

2 A I would call it corrected just -- just for the sake of --
3 yeah. It --

4 Q And why would you say it's corrected instead of revised?

5 A Because it wasn't -- it wasn't complete. His first
6 submission didn't include the burden rates. So his first
7 submission was way too low.

8 Q And these are the only bids that Olympic Tug & Barge
9 submitted to you?

10 A Yes.

11 Q And Olympic Tug & Barge, he submitted this to you on
12 October 28, 2020.

13 A Around there. I -- I assume around there.

14 Q And just -- just for purposes of clarification, the figure
15 here on row 2 in GC Exhibit 217 -- so in Respondent's Exhibit
16 31 -- I just calculated it out. I divided 9,593, 71 cents by
17 6, and that's 1,598, 95 cents. So that's what you entered in
18 this row 2 column D?

19 A Correct?

20 Q And you did the same thing for the L.A. tugs?

21 A Correct.

22 Q Okay. As well as San Francisco tugs. And New York,
23 Philly, it looks like?

24 A Correct. Yeah.

25 Q Okay. Thank you.



1 A And those are from the Exhibit 31 numbers.

2 (Counsel confer)

3 JUDGE SANDRON: I want to know if Counsel's going to -- 50
4 and 293 for identification.

5 MR. RIMBACH: I like to show Ms. Beckman GC Exhibit 150.
6 And just for the record, Respondent's Exhibit 31 is included as
7 an attachment that is attached to the email on page 2 of GC
8 Exhibit 150 that is dated October 28, 2020, at 2:06 p.m. from
9 Sven Titland to Jennifer Beckman.

10 JUDGE SANDRON: All right.

11 MR. RIMBACH: Is that right, Mr. Hilgenfeld?

12 MR. HILGENFELD: It is.

13 MR. RIMBACH: And I also distributed Exhibit 293. That is
14 the second attachment to that same email that's on page 2 of GC
15 Exhibit 150, dated October 28, 2020, at 2:06 p.m.

16 JUDGE SANDRON: All right. This is getting a little bit
17 confusing. So you're saying that --

18 MR. RIMBACH: Yeah, sorry. So Mr. Hilgenfeld had
19 previously offered Respondent's Exhibit --

20 JUDGE SANDRON: 31, right?

21 MR. RIMBACH: 31.

22 JUDGE SANDRON: Yes.

23 MR. RIMBACH: But I'm offering GC Exhibit 150, which is
24 the email that attached to Respondent's Exhibit 31.

25 JUDGE SANDRON: All right. So do you have any objection

1 then to Respondent's Exhibit 31?

2 MR. RIMBACH: No, Your Honor.

3 JUDGE SANDRON: All right. That's received.

4 **(Respondent Exhibit Number 31 Received into Evidence).**

5 MR. RIMBACH: And then --

6 JUDGE SANDRON: And then 150 relates to -- GC 150 relates
7 to Respondent's Exhibit 31.

8 MR. RIMBACH: Yes, Your Honor. As well as GC Exhibits
9 293 -- unfortunately, the numbers are almost messed -- messed
10 up because --

11 JUDGE SANDRON: Well, let's see.

12 MR. RIMBACH: So just to clarify again, the email that's
13 dated October 28, 2020 at 2:06 p.m, that's on Exhibit 150 on
14 page 2 at the top.

15 JUDGE SANDRON: Which page are you on?

16 MR. RIMBACH: On page 2 at the top.

17 JUDGE SANDRON: Right. Well, these are the emails that --

18 MR. RIMBACH: It's an email thread. And with the email
19 thread you kind of lose the attachments that are attached to
20 each email and the emails are kind of buried in the email
21 thread. But GC Exhibits -- excuse me, Respondent Exhibit 31
22 and GC Exhibit 293, where documents attached to the email dated
23 October 28, 2020 at 2:06 p.m.

24 JUDGE SANDRON: So GC Exhibit 293 and basically goes along
25 with Respondent's Exhibit 31?

1 MR. RIMBACH: Yes. There are two separate documents
2 attached to that email.

3 JUDGE SANDRON: All right. So GC Exhibit 150 with emails
4 with the -- and the attachments were Respondent's Exhibit 31
5 and GC Exhibit 293?

6 MR. RIMBACH: Yes.

7 JUDGE SANDRON: All right. Mr. Hilgenfeld, any objections
8 to General Counsel Exhibits 150 and 293?

9 MR. HILGENFELD: No. No objections.

10 JUDGE SANDRON: All right. They are received.

11 **(General Counsel Exhibit Numbers 150 and 293 Received into**
12 **Evidence)**

13 Q BY MR. RIMBACH: If you look at you see Exhibit 293, was
14 this information inputted in the spreadsheet?

15 A You can see at C-2 it says "one ops manager included in
16 the day rate for B-2" because in Exhibit 31, Sven wrote out the
17 operations manager salaries broken down and added to the number
18 and fully burdened. So he had already included that in that
19 rate.

20 Q All right. You don't know how he did that calculation,
21 exactly?

22 A I mean, I think he did -- I don't know. I can't
23 speculate. No, I do not.

24 Q If you look at GC Exhibit 150, the email thread. If you
25 look at page 3 it says October 23rd, 2020, at 4:59 p.m. It

1 says "OTB Bid 2". So do you know why it says Bid 2?

2 A I do not.

3 Q Was there a previous bid that was submitted?

4 A Not -- not prior to the one on the 23rd, no.

5 Q After you received the bid on October 28, 2020 from
6 Olympic Tug & Barge, did you request any clarifying or follow
7 information from Mr. Titland after that date?

8 JUDGE SANDRON: All right. You know, one thing going back to
9 GC Exhibit 150 in the attachments.

10 MR. HILGENFELD: Yes.

11 JUDGE SANDRON: I gather that page 6 was not in existence
12 at the time that those additional documents were sent.

13 MR. RIMBACH: Yes, I apologize. I can explain. Page 6 of
14 GC Exhibit 150 is the attachment to Jennifer Beckman's November
15 9th, 2020 email on page 1.

16 JUDGE SANDRON: I don't know. It's getting very confused
17 with the --

18 MR. HILGENFELD: I mean, it is confusing.

19 MR. RIMBACH: Okay. I can --

20 THE WITNESS: I think the confusion is I use the same
21 chain.

22 MR. RIMBACH: Yeah.

23 MR. HILGENFELD: The first -- I mean, as I -- as I
24 understand it, Your Honor, the first email from Ms. Beckman and
25 Mr. Titland on November 9th at 8:28 --

1 JUDGE SANDRON: Right.

2 MR. HILGENFELD: -- had an attachment to it and that's
3 page 6.

4 MR. RIMBACH: Yes.

5 MR. HILGENFELD: On the second page, the email from Sven
6 Titland to Jennifer Beckman on October 28 at 2:06 p.m. had an
7 attachment to it, and that was Respondent's 31.

8 JUDGE SANDRON: So --

9 MR. RIMBACH: And GC Exhibit 293, yeah.

10 MR. HILGENFELD: And GC Exhibit 293.

11 JUDGE SANDRON: And that -- that -- they were in
12 conjunction with which email?

13 MR. HILGENFELD: October 28th to 2:06 p.m. Sven Titland to
14 Jen Beckman.

15 JUDGE SANDRON: Oh, I see.

16 MR. HILGENFELD: So that email had an attachment, and that
17 attachment was Respondent 1 and --

18 JUDGE SANDRON: Oh, where it -- where it says "please see
19 the amended attachments?

20 MR. HILGENFELD: Correct.

21 JUDGE SANDRON: Oh, I see. All right. Thank you.

22 Q BY MR. RIMBACH: So after October 28, 2020, you're not
23 aware of any additional bid proposals or revised bids from
24 Olympic Tug & Barge?

25 A Not that I'm aware of.



1 Q Now, if you look at page 6 of GC Exhibit 150.

2 A Yes.

3 Q The letter that you sent. Is this a letter that you sent
4 on November 9, 2020, attached to the email on page 1?

5 A Yes.

6 Q If the bids were within acceptable range why did you
7 request -- or why did you invite Olympic Tug & Barge to update
8 their bid proposals and submit final pricing?

9 A Because we gave everyone the equal opportunity to revise.

10 Q How would Olympic Tug & Barge know how to revise their
11 bids or if they had to.

12 A I mean, no one had to. They were just invited to. So you
13 can or you cannot.

14 Q Was -- was it an expectation that they would submit
15 updated bid proposals if their bids were within acceptable
16 range?

17 A It wasn't expected either way.

18 Q Did Mr. Godden explain -- what did Mr. Godden explain to
19 you when he asked you to send these letters indicating that CLL
20 was inviting them to update their bid proposals?

21 MR. HILGENFELD: I believe this has been asked and
22 answered. Think we went through the entire conversation,
23 everything that was there. We seem to be repeating things
24 without --

25 MR. RIMBACH: I can move on, Your Honor.

1 Q BY MR. RIMBACH: And these figures on row 2 for Olympic
2 Tug & Barge I believe your testimony was that that does include
3 the burden rate?

4 A Correct.

5 Q Okay. And that's true for all of the other entities on
6 the spreadsheet as well?

7 A Yes. Burden rate and managerial oversight. So shoreside
8 support, yes.

9 Q Could you please look at Respondent's Exhibit 19 if you
10 have it in front of you? I am so sorry. Can I ask you to go
11 back to Respondent's Exhibit 20.

12 A Yeah.

13 Q If you look at page 8. What does -- the sentence at the
14 top, it asks "please describe in detail your experience,
15 qualifications, and manning/management plan". What did you
16 mean by experience?

17 A Your experience delivering bunkers or terminal
18 transportations or your experience operating barges.

19 Q What did you mean by qualifications?

20 A I guess kind of the same question. Are you qualified to
21 do this kind of work?

22 Q And what is manning management plan for any and all of the
23 equipment and the applicable areas that the vendor is applying
24 bids for?

25 A Manning would be the crew members physically on the



1 equipment, and then management was a little open ended for how
2 much shoreside managerial support you would require for your
3 crew.

4 Q It doesn't look like Olympic Tug & Barge included a
5 description of their experience in this attachment 6.

6 A Uh-huh.

7 Q Did you follow up with Olympic Tug & Barge about why that
8 wasn't in here.

9 A I only took the -- the bids and put them in the
10 spreadsheet and calculated them out. I didn't do anything else
11 besides -- no, I did not. No.

12 Q Okay. Did you follow up with Olympic Tug & Barge about
13 why their qualifications were not listed in here?

14 A I did not.

15 MR. HILGENFELD: Objection. Asked and answered. She just
16 said --

17 MR. RIMBACH: I only said experience.

18 MR. HILGENFELD: -- she just said what she said for all of
19 it. She just put the bids in the spreadsheet.

20 Q BY MR. RIMBACH: Did Mr. Godden instruct you to request
21 the subsidiaries experience, qualifications, and manning
22 management plan in here?

23 A No.

24 Q How did you know to include that here?

25 A Oh, I'm sorry. I thought you meant did he request me to

1 get the information from Olympic Tug & Barge? Yeah. No, he --
2 he asked me to put this -- to put this open-ended page on here
3 to give us any additional information. Yes.

4 Q Specifically about the company's experience,
5 qualifications, and man -- manning management plan?

6 A Yes.

7 Q Okay. And those were factors that were considered in the
8 decision to award the work; is that right?

9 A I think he took them into consideration. I didn't have
10 anything to do with the award, so I don't know all the factors.

11 JUDGE SANDRON: So he was a decision maker?

12 THE WITNESS: He was. He let me know what to put in the
13 bid, what to -- you know, we discussed --

14 JUDGE SANDRON: Right.

15 THE WITNESS: -- these numbers as I put together, but I
16 had no knowledge or part of the award decision.

17 JUDGE SANDRON: I see. I see.

18 MR. RIMBACH: Thank you.

19 Q BY MR. RIMBACH: Could you look at Respondent's Exhibit
20 19, now? This was the only bid submission submitted by
21 Millennium Maritime. Is that correct?

22 A Yes. I don't think I got anything else from them.

23 Q And the figure that you inputted for row 5 column B that
24 was obtained from page 6 of Respondent's Exhibit 19?

25 A Correct.

1 Q Okay. Now, if you could please look at Respondent's
2 Exhibit 18, the letter of acknowledgment and bid submissions
3 from Westoil Marine Services. Westoil Marine Services did not
4 submit any other bids or revised bids or updated bids other
5 than the ones contained in this exhibit; is that right?

6 MR. HILGENFELD: Objection. Mischaracterized the
7 evidence.

8 JUDGE SANDRON: What's that?

9 MR. HILGENFELD: Objection. Mischaracterized the
10 evidence.

11 JUDGE SANDRON: I think Westoil, did they send a revised
12 bid?

13 MR. HILGENFELD: They did on November 13th. It's been
14 admitted in the record. It's a separate exhibit, Thomas.

15 JUDGE SANDRON: Right.

16 MR. RIMBACH: Oh. Okay, I apologize then. Let's see.

17 Q BY MR. RIMBACH: If you could turn to page 11. So the
18 \$2,416 figure row 8 column D its 2,416 that you obtained from
19 page 11 of Respondent's Exhibit 18?

20 A Correct.

21 Q And I believe you were referring to Respondent's Exhibit
22 27, the revised bid for the barge rate, day rate from Westoil
23 Marine Services. They reduced it to 2,365. And I believe your
24 testimony was that they lowered it by about \$50; is that right?

25 A Yes. Is my math off there?

1 Q No, it's I think you're right on. Yeah, I think you're
2 off by \$1. Okay. So you did not update this spreadsheet after
3 November 6, 2020?

4 A I did not, no.

5 Q If you could please turn to Respondent's Exhibit 18? I'm
6 sorry, Respondent's Exhibit 22 from Harley Marine Gulf. Do the
7 bids contained in this exhibit -- are those all of the bids
8 submitted by Harley Marine Gulf?

9 A Yes, they are.

10 Q I think I just have one question about this for
11 clarification. For Harley Marine Gulf here, there's a figure
12 that is in row 11, column H \$4,874.90. I just couldn't figure
13 out where you obtained that figure from these bid submissions,
14 but I might have just overlooked it somewhere. Do you know how
15 you obtained that figure?

16 A Without a calculator in front of me what I assumed I did
17 was on page 17, I took all the tugs and averaged that and then
18 I added it to the 1325.37 as the barge day rate. But I would
19 have to I would have to check my math real quick, but I, I kind
20 of assume that's what I would have done.

21 MR. RIMBACH: Okay. Thank you.

22 JUDGE SANDRON: All right. You know, it's about a quarter
23 to five. How much -- do you have a lot more cross?

24 MR. RIMBACH: I probably have another hour or so, Your
25 Honor.

1 JUDGE SANDRON: No, we're not going to finish today. So --

2 MR. RIMBACH: I'm really sorry.

3 JUDGE SANDRON: Well, that's -- that's what litigation is.

4 MR. HILGENFELD: I would ask, Your Honor, if we can go as
5 late as possible today just because --

6 JUDGE SANDRON: Well --

7 MR. HILGENFELD: -- we have an expert coming in, even if
8 it's fifteen minutes.

9 JUDGE SANDRON: Well, we could cut off. We could go
10 quarter after five that's the absolute cut off.

11 MR. HILGENFELD: Understood. I -- just every minute it
12 helps just because we have someone coming in from Pennsylvania
13 who's trying to get on and off tomorrow as much as we can.

14 JUDGE SANDRON: Well, we can take him out of order to
15 finish. I mean, we can take the witness out of order. And
16 then finish her a little later if you want to do that. It's --
17 I know it's --

18 THE WITNESS: Yeah, it doesn't matter to me.

19 JUDGE SANDRON: -- I mean it's up to you.

20 MR. RIMBACH: I'm okay with that either way. It doesn't
21 matter to me.

22 JUDGE SANDRON: Well, which would you prefer?

23 MR. HILGENFELD: I would like to see as far as we can
24 here, get Ms. Beckman off so she -- she's already been -- this
25 is now her third day that we've had her company.

1 JUDGE SANDRON: Right. But I don't think she's gonna
2 finish today though.

3 MR. HILGENFELD: No, no, no. I understand she'd come back
4 tomorrow, but the farther we can get along today the farther we
5 are tomorrow, is my only thought. Even if it's fifteen
6 minutes.

7 JUDGE SANDRON: All right.

8 MR. HILGENFELD: We would take it.

9 JUDGE SANDRON: All right. We're going to go off the
10 record at 5:15 wherever we are.

11 MR. HILGENFELD: Thank you, Your Honor.

12 Q BY MR. RIMBACH: Do you know, if it was only Mr. Godden's
13 decision to assign work in these locations L.A. and Long Beach,
14 San Francisco, and New York, Philadelphia to particular
15 companies, was it his decision alone?

16 A I don't know.

17 Q Did Mr. Godden explain to you why Harley Marine Gulf was
18 not awarded the L.A. tug work --

19 A No.

20 Q -- even though they were the lowest bidder?

21 A No.

22 Q Did Mr. Godden explain to you why Olympic Tug & Barge was
23 not awarded than New York and Philly work even though they were
24 the lowest bidder?

25 A No.

1 Q If you could please turn to Respondent's Exhibit 21. The
2 bid submissions from Harley Marine New York? And were these
3 the only bits submissions you received from Harley Marine New
4 York? You take your time to review. I know it's a larger
5 packet of 24 pages.

6 JUDGE SANDRON: All right. Well, I think we had -- I
7 think we can maybe get a situation that we have all of the bids
8 and revised bids already in the record; isn't that correct?

9 MR. HILGENFELD: It was certainly our intent for this to
10 be all of Harley Marine --

11 JUDGE SANDRON: If --

12 MR. HILGENFELD: -- New York.

13 JUDGE SANDRON: And I don't think she needs to repeat it
14 if we have a complete record of all the bid and revised bids
15 and that's already in evidence. Those are already in evidence.
16 We don't need her to reiterate what's in the documents.

17 MR. RIMBACH: If the Respondents are able to stipulate to
18 that, I'm fine with that if --

19 MR. HILGENFELD: We would -- we would so stipulate.

20 JUDGE SANDRON: All right.

21 MR. RIMBACH: Thank you.

22 JUDGE SANDRON: That then is stipulated.

23 Q BY MR. RIMBACH: If you look at page 19 of Respondent's
24 Exhibit 21. I believe this is supposed to be the barge day
25 rate and tug rate combined; is that right?

1 A Correct.

2 Q I'm just trying to figure out how you obtained this figure
3 in row 14 column B, \$5,225.02. Do you know where you obtained
4 that figure from the bid submission?

5 A Would you mind scrolling over and seeing what the note
6 said?

7 Q Oh, sure.

8 A So I took -- I mean, what I believe I did -- I don't have
9 a calculator, but if \$13,008 divided by 5 plus -- no. Yeah,
10 plus 2,100.

11 Q Okay. So I believe it's divided by 5. It would be
12 \$2,601 --

13 A Uh-huh.

14 Q -- and then plus 2100, which is listed there would be
15 about 3,800 -- or 3,700. Excuse me.

16 A No, the 21 -- the 21 -- sorry. 2,601 plus 21,000 -- 2,100
17 and 22 cents.

18 Q That's about \$4,700.

19 A Well, then maybe it's -- maybe I'm not looking at the
20 right one.

21 Q And just for the record, there's an internal note in the
22 Excel file in column B row 14 that says "\$2,100.22 included for
23 a shoreside staff. Crew costs are for both tug and barge.
24 Pricing given for five tugs."

25 A Would you maybe just click on that and see if there's

1 something below the five tugs --

2 Q Sure. Yes.

3 A -- because there's a comma. Just click -- right click and
4 do edit note.

5 MR. RIMBACH: Oh, right click.

6 THE WITNESS: Yeah.

7 MR. RIMBACH: You're better at Excel than I am. Let's
8 see. I can't right click for some reason, it won't let me.

9 THE WITNESS: Well --

10 MR. RIMBACH: Just if you know. I -- I don't know --

11 JUDGE SANDRON: Yes.

12 THE WITNESS: Yeah, sorry. I'm sure that maybe there's
13 something --

14 MR. RIMBACH: You can take your time, too. I know the --

15 THE WITNESS: -- below that but --

16 MR. RIMBACH: -- it's all searches.

17 THE WITNESS: -- but it was -- I mean, obviously the --
18 there's \$2100 of shoreside costs. But there's possibly a
19 burden rate, which is how I get to the -- to the 5,200.

20 Okay. So I believe -- and if these numbers work out --
21 sorry that I don't have calculator -- but we you take the --

22 MR. HILGENFELD: There is more to the note that's on
23 there. So if you if you click on it and then expand it so it
24 looks bigger.

25 MR. RIMBACH: Oh, okay. Let me try to do it on my screen

1 first. On my laptop screen here. It looks -- it's not
2 cooperating. There we go. Okay. Let me see.

3 MR. HILGENFELD: Do you -- I can read the note if that's
4 easier. Or you can read the note, Thomas.

5 MR. RIMBACH: You can read the note. I can't pull it up
6 for some reason.

7 MR. HILGENFELD: So the note states -- and this is in GC
8 Exhibit 217. All rates. Column B. Other. Column 14.
9 Author. \$2,100.22 included for Shoreside staff. Period. Crew
10 costs are for both tug and barge period. Price and given --
11 pricing given for five tugs, comma, adding 20 percent for
12 accounting for additional 6th barge.

13 THE WITNESS: Okay. Thank you.

14 MR. RIMBACH: Thank you.

15 Q BY MR. RIMBACH: Do you know what that means? Adding 20
16 percent for accounting for a 6th barge?

17 A Since they bid them together there's 5 boats and 6 barges
18 but they bid them together. So I had to add an additional
19 piece of equipment. So I just took their, you know, their 5 to
20 add 1 more and took 20 percent.

21 MR. RIMBACH: I see. Okay. And I didn't mean to trick
22 you. I just did not see --

23 THE WITNESS: No, I'm sorry. I just couldn't --

24 MR. RIMBACH: -- the full note or anything. I did not. I
25 just trying to ask --

1 THE WITNESS: This was why --

2 MR. RIMBACH: -- to clarify.

3 THE WITNESS: -- this is why I put notes so I'm --

4 MR. RIMBACH: Okay.

5 THE WITNESS: -- so I can know what I'm doing. Yeah.

6 MR. RIMBACH: For some reason that got cut off on my
7 version of the Excel spreadsheet. I don't know why.

8 Q BY MR. RIMBACH: Okay. And this one makes more sense to
9 me. I think this is the full note. But just to clarify, on
10 page 20 of Respondent's Exhibit 21 it looks like you added
11 \$1,050.11 to what's marked here --

12 A To the 3621.

13 Q -- to \$3621.07?

14 A If that match -- if that math -- math adds up, yeah I
15 think that's -- that one's more straightforward.

16 MR. RIMBACH: Yes. That matches up. Thank you. And just
17 for the record, there's a note here that says \$1,050.11
18 included for shoreside staff. It's an embedded note in the
19 Excel document in row 14, column F.

20 Q BY MR. RIMBACH: For the \$7,000.26 -- excuse me, \$7,026.65
21 in row 14 column H for New York, Philly for Harley Marine New
22 York's bid. Did you obtain that number from the bid
23 submission?

24 A Yeah, I'm hoping that that would just be the 1,300 plus
25 the 3,625 plus the 2,100.

1 Q It's about -- yup it's

2 A Okay.

3 Q -- it's about right. So you use the same shoreside costs
4 for New York and Philly as you did for --

5 A That's what he -- that's per their bid. I didn't just
6 determine that.

7 Q Okay. Is there a requirement to have shoreside staff at
8 the physical location for these -- each of these locations,
9 like, for example, in Los Angeles, in Long Beach, where the
10 Shoreside staff happens to be located in Los Angeles and Long
11 Beach?

12 A Not all of them, but you would need one -- one member of
13 the same company working shoreside in your location.

14 Q So I guess for -- for Westoil Marine Services bid it just
15 says one operations supervisor for California. How would that
16 work if there's only one operations supervisor for two
17 different locations for L.A., and Long Beach, and San
18 Francisco?

19 A That's how they bid it. They would just go to each
20 region.

21 JUDGE SANDRON: No, I would say --

22 MR. RIMBACH: Well, if you don't know, that's okay.

23 THE WITNESS: I don't know. That -- that's how they did
24 it.

25 MR. HILGENFELD: West only did for L.A. They didn't bid

1 for any other regions.

2 S2: Oh, okay. Thank you. Yeah, that's. Let me see.

3 Oh, I'm sorry. I meant to ask you a different question.

4 Q BY MR. RIMBACH: For Olympic Tug & Barge where it says one
5 operations manager for California -- Olympic Tug & Barge had
6 submitted bids for both Los Angeles, the Long Beach, and the
7 San Francisco locations. Do you know why there's only one
8 operations manager submitted as part of its proposal for both
9 those locations?

10 A That's just how they bid it.

11 Q And you don't know why, for Olympic Tug & Barge?

12 A No, no.

13 Q If you could look at the page -- excuse me. Do you see
14 Exhibit 216? It's -- there's an email and then --

15 A Oh. Yes.

16 Q -- three spreadsheets attached as PDFs. It's kind of a
17 JUDGE SANDRON: I need to see that, I think as well.

18 Okay. We have fifteen minutes, just so you know

19 MR. RIMBACH: Okay.

20 Q And this is actually the same spreadsheet that is
21 displayed on the screen right now. It may just help you to
22 look at the different pages. Now pages 3 and 4 of this
23 exhibit, that's the additional tabs that you've created that
24 you emailed to Mr. Godden on November 6th, 2020; is that right?

25 A Around -- around that date. Yeah.

1 Q Okay. On page 4 of the exhibit I believe your testimony
2 was that this is crew costs only, and that's what the tab is
3 labeled as well. How did you know what to subtract as the crew
4 costs? Costs that were not crew costs, I mean?

5 A Because all the bidders listed that out. So yeah, they,
6 they listed out what the managers or what the different
7 shoreside positions rates would be. So I just deducted them.

8 Q Okay. If you could look at GC Exhibit 45, if you have
9 that in front of you.

10 JUDGE SANDRON: You know, I don't this it was --
11 introduced recently.

12 MR. RIMBACH: Sorry, this has already been admitted into
13 evidence, Your Honor, GC Exhibit 45.

14 JUDGE SANDRON: But I don't have a copy.

15 MR. RIMBACH: Oh, oh, I'm sorry. I have to get one to --

16 JUDGE SANDRON: Unless it's one of the new -- the ones
17 that was introduced this week. Thank you.

18 Q BY MR. RIMBACH: If you could please turn to page 16?
19 This letter refers to bids within acceptable range and bids
20 outside of acceptable range. I believe your testimony was that
21 Mr. Godden instructed you what the acceptable range was; is
22 that right?

23 A Yes.

24 Q And you testified that a bid was unacceptable if it was 5
25 percent over the average cost of bid submissions; is that

1 right?

2 A Correct.

3 Q And when did he tell you that?

4 A During our early November Zoom.

5 Q Do you recall anything else he said about acceptable range
6 or unacceptable range?

7 A Nope, that's -- that's it.

8 Q Did you offer any input on what an acceptable range is?

9 A No.

10 Q Wasn't the acceptable range actually 20 percent higher
11 than the lowest bid?

12 A No. The acceptable range was always 5 percent -- within 5
13 percent of the average.

14 Q Can you please turn to the declaration if you still have
15 it in front of you? You signed this declaration under the
16 penalty of perjury; is that right? On page 3, the second to
17 last sentence.

18 A Yes. Yes.

19 JUDGE SANDRON: This is the same declaration?

20 MR. RIMBACH: Yes, Your Honor.

21 JUDGE SANDRON: Then she doesn't have to --

22 MR. RIMBACH: Oh, okay.

23 JUDGE SANDRON: -- go over that again.

24 Q BY MR. RIMBACH: Could you please read paragraph 9 at the
25 top of page 3?

1 A Bids that were more than 20 percent higher than the low
2 bid were deemed unacceptable.

3 Q You do not inform any of the companies what the acceptable
4 range was; is that right?

5 A I did not, no.

6 Q You never informed the IBU what the acceptable range was?
7 Is that right?

8 A I never spoke to the IBU at all.

9 Q Are you aware of anyone either from Centerline or anyone
10 from Harley Marine Financing or representing Harley Marine
11 Financing, who informed the IBU what the acceptable range was?

12 A I wouldn't have any of that knowledge either way.

13 Q After the letters that you sent on around November 9th, I
14 believe it was soliciting updated proposals for the
15 companies -- I apologize, I may have asked this, but you did
16 not submit any additional letters -- or issue any additional
17 letters to any of those entities soliciting updated or revised
18 bids; is that right?

19 A Not between November 9th and December 9th, no.

20 Q What about after December 9th?

21 A No.

22 JUDGE SANDRON: All right. You should start wrapping up
23 your questions we've got about five minutes left. Then I can
24 say at 5:15 we go off the record.

25 (Counsel confer)

1 Q BY MR. RIMBACH: I'm sorry. Going back to the invitation
2 to tender, you obtain all of the barge information and the -- I
3 think the historic -- historical record about how many how much
4 fuel was historically transported by each company and each
5 location. Where did you obtain that information exactly?

6 A We have a web schedule that houses that information that I
7 can run reports on. We call it a web schedule.

8 Q And is that web schedule maintained by Centerline?

9 A I don't know who maintains it.

10 A You have access to it on your Centerline computer?

11 A Yes.

12 Q Do you know who else has access to that information?

13 A I mean, most -- of that specific information, I don't
14 know.

15 Q Did you collect information on the service history of each
16 subsidiary who submitted a bid?

17 A Only what they -- only what they put in their -- their
18 proposal.

19 Q Did you collect any information on the safety record of
20 each subsidiary who submitted a bid?

21 A Only what was submitted.

22 Q Do you discuss the safety record of each subsidiary with
23 Mr. Godden?

24 A We only discuss the pricing. That was the only portion I
25 was involved in.

1 Q So you do not discuss the service history with him as well
2 then?

3 A No.

4 MR. HILGENFELD: Objection. Asked and answered. She's
5 stated several times she's only discussed the pricing.

6 JUDGE SANDRON: Right. I think she's already testified
7 what -- what she discussed with him.

8 You have time for one more -- one more question.

9 Q BY MR. RIMBACH: Did the crewing metrics factor ever come
10 up in your discussions with Mr. Godden?

11 A You mean what -- what positions each -- each company was
12 proposing to put on the equipment?

13 Q Yes.

14 A No.

15 JUDGE SANDRON: All right. Here's your last question.

16 MR. RIMBACH: Okay.

17 Q BY MR. RIMBACH: Did the shoreside support ever come up in
18 your discussions with Mr. Godden and with respect to the
19 invitation to tender process?

20 A Not specifically.

21 JUDGE SANDRON: All right. It's just about 5:15. We are
22 going to then adjourn until tomorrow morning. So everybody,
23 have a good evening. We stand adjourned. Off the record.

24 MR. HILGENFELD: Thank you, Your Honor.

25 MR. RIMBACH: Thank you.

1 (Whereupon, the hearing in the above-entitled matter was
2 recessed at 5:13 p.m. until Thursday, January 26, 2023 at 9:00
3 a.m.)

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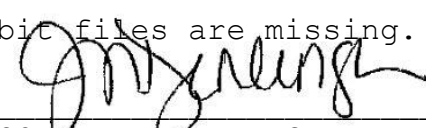
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C E R T I F I C A T I O N

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 21, Case Numbers 19-CA-273208, 19-CA-273220, 19-CA-273226, 19-CA-273928, 19-CA-273985, 19-CA-273771, 19-CB-273986, 21-CA-273926, Leo Marine Services, Inc., Olympic Tug & Barge, Inc., and Centerline Logistics Corporation and Olympic Tug & Barge, Inc. and Centerline Logistics Corporation and Leo Marine Services, Inc. and Centerline Logistics Corporation, Westoil Marine Services, Inc., and Harley Marine Financing, LLC and Seafarers International Union and Inlandboatmen's Union of the Pacific and Centerline Logistics Corporation, Leo Marine Services, Inc., and Olympic Tug & Barge, Inc. and International Organization of Masters, Mates & Pilots AFL-CIO, held at the National Labor Relations Board, Region 21, 312 N. Spring Street, Suite 10150, Los Angeles, California 90012-4701, on January 25, 2023, at 9:20 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.



JACQUELINE DENLINGER

Official Reporter



OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:

Leo Marine Services, Inc., Case Nos. 19-CA-273208
Olympic Tug & Barge, Inc.,
and Centerline Logistics
Corporation,

and

Olympic Tug & Barge, Inc. 19-CA-273220

and

Centerline Logistics 19-CA-273226
Corporation, 19-CA-273928

and

Leo Marine Services, Inc. 19-CA-273985

and

Centerline Logistics 19-CA-273771
Corporation, Westoil Marine
Services, Inc., and Harley
Marine Financing, LLC,

and

Seafarers International Union, 19-CB-273986

and

Inlandboatmen's Union of the
Pacific,

and



Centerline Logistics
Corporation, Leo Marine
Services, Inc., and Olympic
Tug & Barge, Inc.

21-CA-273926

and

International Organization of
Masters, Mates & Pilots, AFL-
CIO.

Place: Los Angeles, California

Dates: January 26, 2023

Pages: 2851 through 3047

Volume: 20

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7227 North 16th Street, Suite 207
Phoenix, AZ 85020
(602) 263-0885



UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 21

In the Matter of:

LEO MARINE SERVICES, INC., OLYMPIC TUG & BARGE, INC., AND CENTERLINE LOGISTICS CORPORATION	Case Nos. 19-CA-273208
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and

OLYMPIC TUG & BARGE, INC.	19-CA-273220
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and

CENTERLINE LOGISTICS CORPORATION	19-CA-273226 19-CA-273928
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and

LEO MARINE SERVICES, INC.	19-CA-273985
---------------------------	--------------

and

CENTERLINE LOGISTICS CORPORATION, WESTOIL MARINE SERVICES, INC., AND HARLEY MARINE FINANCING, LLC	19-CA-273771
---	--------------

and

SEAFARERS INTERNATIONAL UNION	19-CB-273986
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and

INLANDBOATMEN'S UNION OF THE
PACIFIC

and



CENTERLINE LOGISTICS
CORPORATION, LEO MARINE
SERVICES, INC., AND OLYMPIC
TUG & BARGE, INC.

21-CA-273926

and

INTERNATIONAL ORGANIZATION OF
MASTERS, MATES & PILOTS, AFL-
CIO

The above-entitled matter came on for hearing, pursuant to notice, before **IRA SANDRON**, Administrative Law Judge, at the National Labor Relations Board, Region 21, 312 North Spring Street, Tenth Floor, Los Angeles, California 90012, on **Thursday, January 26, 2023, 9:04 a.m.**

A P P E A R A N C E S

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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Jennifer Karen Beckman		2856 2872	2874	2892	
John A. Pearce, II	2899	2991			2916 2983

E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
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General Counsel:

GC-126		2990
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GC-127		2990
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GC-128		2990
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GC-189		2990
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GC-294	2907	2907
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Respondent:

R-7	2897	2898
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R-8	2929	2991
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R-9	2913	2913
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R-25 (a)	2882	2886
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R-25 (b)	2882	2886
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R-25 (c)	2882	2886
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R-25 (d)	2882	2886
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R-25 (e)	2882	2886
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1 P R O C E E D I N G S

2 JUDGE SANDRON: Okay. Back on the record.

3 Hi, Ms. Beckman, you're still under oath.

4 Whereupon,

5 JENNIFER KAREN BECKMAN

6 having been duly previously sworn, was called as a witness

7 herein and was examined and testified as follows:

8 JUDGE SANDRON: Please proceed, Mr. Hilgenfeld.

9 MR. HILGENFELD: Oh, I believe we're on cross, Your Honor.

10 JUDGE SANDRON: Yes.

11 MR. HILGENFELD: Although, I'm perfectly happy to do cross
12 if the General Counsel allows.

13 JUDGE SANDRON: Oh, that's right. You finished your part
14 and now it was up to Mr. Rimbach to pick up the pieces here, so
15 to speak and continue with cross. Thank you for that
16 correction.

17 CROSS-EXAMINATION

18 Q BY MR. RIMBACH: Good morning, Ms. Beckman.

19 A Good morning.

20 Q Welcome back.

21 A Thank you.

22 Q Thank you for coming back.

23 A Not a problem.

24 Q After December 9th, 2020, when you sent the letters to
25 different subsidiaries about whether they won their bids or

1 not, did you ever send any subsequent letters to Westoil Marine
2 Services informing them that they actually retained the tug and
3 barge work that they were performing for Minerva and Peninsula?

4 A No.

5 Q Why not?

6 A I didn't get into any -- what work was going to be
7 performed or not based on the bids.

8 Q Did you have any understanding at the time you sent that
9 December 9th, 2020 letter to Westoil Marine Services of what
10 work was covered under that letter?

11 A I did not.

12 Q Were you aware of anyone from either Centerline or an
13 employee or representative of Harley Marine Financing who
14 informed the IBU that Westoil was not awarded the Los Angeles
15 and Long Beach tug and barge work as of December 9th, 2020?

16 A I have no knowledge of that, no.

17 JUDGE SANDRON: I don't think that's disputed, is it, that
18 no notice was given to IBU or is there an issue on that?

19 MR. HILGENFELD: I think it depends on when you're talking
20 about the notice. I don't think there's any dispute that Ms.
21 Beckman had no involvement whatsoever in anything involving the
22 IBU.

23 JUDGE SANDRON: Well, that may be sufficient, Mr. Rimbach.

24 Q BY MR. RIMBACH: I'm not sure if you have this document,
25 but I'd like to show you GC Exhibit 136, which is already in

1 the record.

2 MR. RIMBACH: Do you need a copy?

3 MR. HILGENFELD: If you have one, Thomas, that'd be great.

4 Thank you.

5 Q BY MR. RIMBACH: Do you recognize this letter?

6 A I do.

7 Q Who prepared this?

8 A I did.

9 Q This was the final decision, correct?

10 A It was just a letter notifying them that their bid was
11 successful. I don't know if I would call it final. It was the
12 final letter that I sent.

13 Q I believe your testimony was that this was the ultimate
14 decision; is that incorrect then?

15 MR. HILGENFELD: Objection. Mischaracterizes what was
16 testified to and the testimony speaks for itself.

17 JUDGE SANDRON: What -- your question is?

18 Q BY MR. RIMBACH: Yeah. Your testimony was that this was
19 the ultimate decision. You used the word ultimate.

20 A It was my last involvement with it.

21 Q So as far as your knowledge, the invitation to tender
22 process was over as of December 9th, 2020?

23 A At least my involvement in it was, yes.

24 Q Do you have any knowledge that it continued after
25 November -- after December 9th, 2020?

1 A I -- I do not, no.

2 Q You had no further discussions with Mr. Godden regarding
3 the invitation to tender process?

4 A Correct.

5 Q Did Mr. -- did Mr. Godden -- what did Mr. Godden tell you
6 when he instructed you to issue these letters exactly?

7 A It was -- it was just to let the bidders know whose bid
8 was successful or not.

9 Q And I apologize if I asked you this. I may have, but just
10 to -- just to be clear for the record, after December 9th,
11 2020, you did not issue any additional letters to any
12 Centerline subsidiaries regarding the invitation to tender
13 process or seeking updated or revised bids at all?

14 A No.

15 Q Okay.

16 A I don't believe so, no.

17 JUDGE SANDRON: I think that her involvement in the
18 process has been thoroughly covered.

19 MR. RIMBACH: Okay.

20 Q BY MR. RIMBACH: Do you know who made the decision to keep
21 the Minerva and Peninsula tug and barge work in the L.A. and
22 Long Beach harbors?

23 A Who made the decision to keep the work?

24 Q My apologies. With Westoil?

25 A Oh, I -- I do not know.

1 Q I believe we may have covered this as well. So I
2 apologize. But Centerline and Harley Marine Financing awarded
3 the tug and barge work in San Francisco to Olympic Tug & Barge,
4 correct?

5 A They were notified that they were the acceptable -- they
6 were in the acceptable range and the bid was successful. Yes.

7 Q So were they awarded the work?

8 MR. HILGENFELD: Objection. This has been asked and
9 answered a number of times. Ms. Beckman stated repeatedly she
10 had no involvement in who awarded the work or what customer is
11 involved with -- her involvement involved issuing this letter.
12 And that was it. We've gone through this now for about an
13 hour.

14 JUDGE SANDRON: Well, I think maybe -- I -- can you tell
15 us, do you know to whom these contracts were awarded, these
16 bids? If you know?

17 THE WITNESS: Right. I -- I'm trying to be specific on
18 the wording.

19 JUDGE SANDRON: Right.

20 THE WITNESS: That I only know that I --

21 JUDGE SANDRON: Okay.

22 THE WITNESS: I -- I sent this letter out. I don't know
23 anything further --

24 JUDGE SANDRON: All right.

25 THE WITNESS: -- regarding San Francisco.

1 JUDGE SANDRON: I see. Okay.

2 THE WITNESS: Yeah. I can't -- I can't speak to
3 anybody --

4 JUDGE SANDRON: That's fine.

5 THE WITNESS: Okay.

6 JUDGE SANDRON: Whatever your knowledge is.

7 THE WITNESS: Okay.

8 Q BY MR. RIMBACH: And is that true as well for LA?

9 A Well, I sent the -- the -- the letter of successful bid
10 for -- for Los Angeles/Long Beach to OTB, but it didn't include
11 specific work, it just said your bid was successful.

12 Q What entity is performing tug and barge work in San
13 Francisco today?

14 A Leo Marine.

15 Q Is Olympic Tug & Barge performing any of that work in San
16 Francisco?

17 A Leo is a subsidiary of Olympic Tug & Barge.

18 Q So my question is a little different. Is Olympic Tug &
19 Barge performing any of the work in San Francisco?

20 MR. HILGENFELD: Objection.

21 JUDGE SANDRON: I guess, as opposed to Leo Marine, just in
22 terms of the legal entity performing the work, it's Leo Marine?

23 THE WITNESS: I just want to be clear on my --

24 JUDGE SANDRON: Yeah.

25 THE WITNESS: -- answer that --

1 JUDGE SANDRON: Right.

2 THE WITNESS: -- Olympic Tug & Barge does do work in the
3 San Francisco Bay --

4 JUDGE SANDRON: I see.

5 THE WITNESS: -- as does Leo Marine.

6 JUDGE SANDRON: I see.

7 THE WITNESS: So it's different service lines
8 historically.

9 JUDGE SANDRON: All right.

10 THE WITNESS: But yes. Olympic Tug & Barge does do work
11 in San Francisco.

12 JUDGE SANDRON: I see. So both of them perform work
13 there?

14 THE WITNESS: They do.

15 Q BY MR. RIMBACH: What kind of work does Olympic Tug &
16 Barge perform in San Francisco today?

17 A Historically, it's -- it's the offshore vessels. So the
18 coast -- the large coastal equipment that will go into San
19 Francisco.

20 Q Is that referring to terminal-to-terminal transfers?

21 A Typically.

22 Q As well as lightering?

23 A Typically, yeah.

24 Q But not bunkering?

25 A They don't typically do bunkering, but I couldn't

1 equivocally say that they don't do bunkering there.

2 Q And what type of work does Leo Marine Services perform in
3 the San Francisco Bay today?

4 A Bunkering.

5 Q Only?

6 A And some -- and some terminal transportation.

7 Q Harley Marine New York performs the tug and barge work in
8 New York and Philadelphia today, correct?

9 A Correct. Various ports in -- on the East Coast.

10 JUDGE SANDRON: I don't know if you want to get too much
11 into the other locations. I -- I can see San Francisco, the
12 West Coast locations, other than that -- well, there's only
13 one, I guess. San Francisco might have enter -- you know, a
14 connection with Los Angeles, but I don't really see how you
15 need to go into the other locations.

16 MR. RIMBACH: Your Honor, I'm just exploring anomalies in
17 the invitation to tender process.

18 JUDGE SANDRON: All right. Go ahead.

19 Q BY MR. RIMBACH: Do you have any knowledge of why Leo
20 Marine Services was assigned to perform the tug and barge work
21 in the Long Beach -- the Los Angeles and Long Beach harbors?

22 A I do not.

23 Q When is the first time you've heard of Leo Marine
24 Services? About when?

25 A I -- I -- gosh, probably around March of 2021.

1 Q Who told you about Leo Marine Services?

2 A I couldn't tell you.

3 Q I'd like to show you what is marked as General Counsel's
4 Exhibits 224 and 225, which have already been admitted into the
5 record.

6 A Thank you.

7 Q If you look at GC Exhibit 224 -- I apologize. I'll just
8 refer you to GC Exhibit 225.

9 A Okay.

10 Q The other letter. You created this letter, correct?

11 A I did.

12 Q And you sent it to Brian Moore?

13 A I did.

14 Q Why doesn't this letter refer to the New York and
15 Philadelphia work?

16 A It was just notification on the L.A./Long Beach work.

17 Q Is there another letter that was sent for the New York and
18 Philadelphia work?

19 A No.

20 Q Why not?

21 A Not by me.

22 Q Why not?

23 A I wasn't instructed to.

24 Q Did Mr. Godden make -- give you those instructions
25 regarding the letter to send out to Harley Marine New York?

1 A Yes.

2 Q What exactly did he tell you when he instructed you to
3 write this letter?

4 A Just to notify them that their bid wasn't successful.

5 Q Did he say specifically to only tell them about their bid
6 for Los Angeles and Long Beach?

7 A Yes.

8 Q What about San Francisco?

9 A It was only Los Angeles and Long Beach.

10 Q Do you know when the decision was made to award the work
11 for New York and Philadelphia?

12 A I do not.

13 Q I believe yesterday Mr. Hilgenfeld asked you about your
14 job duties, and I believe you testified that you negotiate
15 terms with customers?

16 A Yes.

17 Q Can you explain what that means?

18 A Sure. For time charters, it's -- you know, the largest
19 term is the day rate of the unit, delivery and redelivery
20 locations, pass-through costs, such as fuel or lubricants or
21 costs, just anything that they maybe bill to -- billed during
22 the term of the time charter.

23 Q And do you do that only for customers only in Los Angeles
24 and Long Beach or other locations as well?

25 A Other locations as well.



1 Q What other locations?

2 A Primarily, just to the U.S. West Coast. So Puget Sound, I
3 do some in Hawaii. But yeah. Primarily the West Coast up and
4 down.

5 Q And you mentioned that you do that with the help of other
6 employees?

7 A Yes.

8 Q Who are those other employees?

9 A Typically, Mr. Godden, Dan Paige, and Stephen Parry.

10 Q Who is Dan Paige?

11 A Our in-house counsel.

12 Q Where is he based?

13 A New York.

14 JUDGE SANDRON: Do we have his spelling already? I'm not
15 sure.

16 MR. RIMBACH: I believe we do.

17 MR. HILGENFELD: Your Honor, he's made an appearance as a
18 representative.

19 JUDGE SANDRON: Okay. Thank you. Thank you. Okay.

20 THE WITNESS: That's him.

21 MR. HILGENFELD: He's in the back of the room right now.

22 JUDGE SANDRON: Okay. That makes it very easy.

23 MR. RIMBACH: He's sitting in the room right now?

24 THE WITNESS: He is.

25 JUDGE SANDRON: That makes it very easy.



1 Q BY MR. RIMBACH: Do you know what entity he works for?

2 A I do not.

3 JUDGE SANDRON: We've had a lot of days of trial.

4 MR. HILGENFELD: I know. We have. In a lot of different
5 forms.

6 JUDGE SANDRON: Including half -- a number of days of Zoom
7 so.

8 Q BY MR. RIMBACH: And Stephen Parry, who is he to your
9 knowledge?

10 A Okay. I -- I can't remember his exact title, but I think
11 he's the VP of finance.

12 Q Where is he based?

13 A Seattle.

14 Q He works for Centerline?

15 A I -- I -- I couldn't be sure, to be honest. But yes, he
16 works for the company. Yes.

17 JUDGE SANDRON: Do you know if he works for an affiliate
18 or a subsidiary, if you know?

19 THE WITNESS: I don't know.

20 JUDGE SANDRON: All right. That's fine.

21 THE WITNESS: Yeah.

22 MR. HILGENFELD: I believe we've already admitted in the
23 answer that's already --

24 JUDGE SANDRON: All right then.

25 MR. HILGENFELD: -- that he is an employee of Centerline.



1 JUDGE SANDRON: All right. Then it's already in the
2 record.

3 Q BY MR. RIMBACH: You mentioned that you did not negotiate
4 the terms for the Glencore contract?

5 A Correct.

6 Q Okay. But that it was Doug Houghton?

7 A Correct.

8 Q Do you know what period of time Doug Houghton negotiated
9 the Glencore contract that you're referring to?

10 A I --

11 Q Just if you know?

12 A I don't know.

13 Q Do you have Respondent's Exhibit 15 in front of you?

14 A I do.

15 Q I just had a couple of clarifying questions because I
16 missed it, but who is Matt Hammond?

17 A He was the general manager at Harley Marine Gulf at the
18 time.

19 Q And who is Dylan Galm?

20 A He -- he was helping with customer -- like, chartering and
21 sales for the gulf and the East Coast regions at that time.

22 JUDGE SANDRON: Do you we have those spellings? Counsel
23 is going to let me know. I -- it's hard to keep track of all
24 the names that have been mentioned. Are those in the record?

25 MR. HILGENFELD: They are, Your Honor.

1 JUDGE SANDRON: Okay.

2 Q BY MR. RIMBACH: And when you say for the gulf, that would
3 be for Harley Marine Gulf?

4 A Correct.

5 Q And he also performed work for Harley Marine New York; is
6 that what you're referring to by the East Coast?

7 A Yes. Sorry.

8 Q Does he work for Centerline?

9 A I don't know.

10 Q Do you know where he's based?

11 A New York.

12 JUDGE SANDRON: I think we had testimony about this
13 yesterday.

14 Q BY MR. RIMBACH: And Brian Moore, I believe you said he's
15 the director of East Coast operations?

16 A Correct.

17 Q Is he the director of East Coast operations for Centerline
18 or Harley Marine New York?

19 A Harley Marine New York.

20 Q Thank you. If you could please look at page 13 of
21 Respondent's Exhibit 15, the same exhibit? If you could look
22 at the third paragraph of this letter, it says, "We confirmed
23 that our bid is firm and valid for a period of 180 days." Why
24 did you include that in this letter?

25 A Essentially, I just wanted a time period that people

1 weren't going to edit their -- their submissions. So if you
2 gave me a bid and then we came back a month later and said you
3 won the bid, and then you say, well, that was a month ago, our
4 rates have changed. Yeah.

5 Q Did Mr. Godden instruct you to include that?

6 A Yes.

7 Q Okay. You mentioned that in L.A. and Long Beach,
8 customers pay hourly; is that correct?

9 A You know, every customer contract is different. What I
10 think I meant by that was when I was going out putting this bid
11 out, the only question Mr. Godden had prior to it being sent
12 was how I was pricing the boats in L.A. He questioned whether
13 we should have an hourly rate instead of a per-day rate. We
14 didn't ultimately change that, but yeah. It's -- it's --
15 everyone pays a little bit differently -- at least for our --
16 our -- the customers each pay differently.

17 Q When you say differently, it's -- it could be hourly
18 versus daily rates?

19 A It -- right. Some -- some customers don't pay additional
20 for tugs. That -- that cost is just included in their per-day
21 rate. Some people have a per-day rate plus the cost of -- of
22 tugs. Some people only pay for a second tug or a standby tug.
23 So it's just all a little bit -- it's just priced out a little
24 bit differently.

25 JUDGE SANDRON: So the contracts that are negotiated for

1 the customers are different?

2 THE WITNESS: They're all different.

3 Q BY MR. RIMBACH: I believe your testimony was that Mr.
4 Backe had all of the information regarding burden rates to
5 assist the subsidiaries in submitting their bids?

6 A Correct.

7 Q And you also had their day rates?

8 A I mean, he could look up what their current crewing costs
9 were.

10 Q Do you have access to that information as well?

11 A I do not.

12 Q Who does Mr. Backe work for? Is he currently employed?

13 A He is not currently employed and I don't know who his
14 employer was at the time.

15 Q Where was he based?

16 A Seattle.

17 Q Do you know who Mr. Backe reported to?

18 A I don't.

19 MR. RIMBACH: Could I just have one minute, Your Honor?

20 JUDGE SANDRON: Yes.

21 MR. RIMBACH: To review my notes.

22 JUDGE SANDRON: Do you want to go off the record?

23 MR. RIMBACH: We don't need to go off the record.

24 JUDGE SANDRON: All right.

25 MR. RIMBACH: It'll be quick.



1 JUDGE SANDRON: Okay. Fine. We'll stay on the record.

2 MR. RIMBACH: No further questions, Your Honor.

3 JUDGE SANDRON: Okay.

4 MR. RIMBACH: Thank you, Ms. Beckman.

5 JUDGE SANDRON: Mr. Wojciechowski, any questions?

6 MR. WOJCIECHOWSKI: I do. I do have a couple.

7 **CROSS-EXAMINATION**

8 Q BY MR. WOJCIECHOWSKI: Hi, Ms. Beckman. I'm Jason
9 Wojciechowski. I'm the counsel for Masters, Mates & Pilots in
10 this case. Can you look at Respondent's Exhibit 17, page 5?
11 And just let me know once you have it.

12 A All set. All set.

13 Q Okay. You testified about barges on this page servicing
14 the customers Glencore, Peninsula, and Minerva. That was
15 referring to the Los Angeles Barges on this page, right?

16 A Correct.

17 Q Not necessarily the Webb Moffett in San Francisco?

18 A Sorry. I should have clarified that. Yes. That was only
19 the Los Angeles.

20 Q And I think you also testified a little bit about Olympic
21 Tug & Barge on its bid submission. I think you were asked some
22 questions about how the rate only reflected one operations
23 manager; do you remember that general --

24 A Yes.

25 Q -- area?



1 A Yes.

2 Q And just to be clear, Leo Marine currently has two
3 operations managers, right?

4 A I --

5 Q If you know?

6 A I don't -- I don't know.

7 Q Okay. Do you -- do you know of someone named Bowman
8 Harvey?

9 A I do.

10 Q Do you know what his role is in the company generally?

11 A I couldn't tell you what his title is to be honest.

12 JUDGE SANDRON: And which company are you --

13 MR. WOJCIECHOWSKI: Sorry?

14 JUDGE SANDRON: Which company? You said --

15 MR. WOJCIECHOWSKI: Well, if she doesn't know, she doesn't
16 know. You know, it was more if she knew what -- what company.
17 I mean, you know, the -- the -- a Centerline affiliated
18 company. But if you don't know --

19 JUDGE SANDRON: All right.

20 MR. WOJCIECHOWSKI: -- you don't know.

21 Q BY MR. WOJCIECHOWSKI: In -- in 2020 -- at any point in
22 2020, to your knowledge, did Starlight Marine Services perform
23 any work in the Los Angeles/Long Beach harbor?

24 A Not -- not to my knowledge.

25 Q Okay. What about 2019?

1 A Not -- not to my knowledge.

2 Q And just 2018?

3 A Not to say that it didn't, but yeah.

4 Q I'm sorry?

5 A Not to say that they didn't, but I -- I couldn't think of
6 a specific instance --

7 Q Okay.

8 A -- that they did.

9 Q And then the same question for 2018?

10 A Same. Yeah. I -- I couldn't think of a specific instance
11 that they did, but I'm not ruling it out.

12 Q Sure. Sure. Do you have any awareness of that -- of any
13 point during your time with the company when Starlight
14 performed any work in the Los Angeles/Long Beach harbor?

15 A Again, I couldn't think of a specific instance, but I'm
16 not ruling it out that they have at some point.

17 Q Sure.

18 MR. WOJCIECHOWSKI: That's all I had. Thank you.

19 JUDGE SANDRON: Redirect, Mr. Hilgenfeld?

20 MR. HILGENFELD: Yes, Your Honor. Thank you.

21 **REDIRECT EXAMINATION**

22 Q BY MR. HILGENFELD: Good morning, Ms. Beckman.

23 A Good morning.

24 Q You talked about terminal-to-terminal transfers, what is a
25 cross-harbor terminal-to-terminal transfer?

1 A It's basically moving product within a harbor, so you're
2 not going offshore, but you're moving product from a single
3 terminal to another.

4 Q Does OTB perform cross-harbor terminals in L.A./Long
5 Beach?

6 A Yes.

7 MR. RIMBACH: Objection as to time?

8 MR. HILGENFELD: I'll reframe.

9 Q BY MR. HILGENFELD: From -- in 2020, did Olympic Tug &
10 Barge perform cross-harbor terminal-to-terminal transfers in
11 L.A./Long Beach?

12 A Yes.

13 Q In 2020, did OTB perform cross-harbor terminal-to-terminal
14 transfers in San Francisco?

15 A Yes.

16 Q Prior to 2020, did Olympic Tug & Barge regularly perform
17 cross-harbor terminal-to-terminal transfers in L.A./Long Beach?

18 A Yes.

19 Q Prior to 2020, did Olympic Tug & Barge regularly perform
20 cross-harbor terminal-to-terminal transfers in San Francisco?

21 A Yes.

22 Q Since 2020, has Olympic Tug & Barge regularly performed
23 cross-harbor terminal-to-terminal transfers in L.A./Long Beach?

24 A Yes.

25 Q Since 2020, has Olympic Tug & Barge regularly performed



1 cross-harbor terminal-to-terminal transfers in San Francisco?

2 A Yes.

3 Q Does west -- to your knowledge, in 2020, did Westoil
4 perform cross-harbor terminal-to-terminal transfers in LA?

5 A I'm sure they did.

6 Q Since 2020, has Westoil continued to perform cross-harbor
7 terminal-to-terminal transfers in LA?

8 A Yes.

9 Q Ms. Beckman, I'm going to turn your attention to your
10 declaration. Do you have that in front of you?

11 A I do.

12 Q I'm going to turn your attention to paragraph 2. In your
13 declaration you talk about any interested company. Do you see
14 that?

15 A I do.

16 Q What did you mean by that?

17 A I -- I meant to collect the bids from people that
18 responded and were clearly interested. If you responded, you
19 had interest.

20 Q Did you do that?

21 A Yes.

22 Q Okay. Did the companies you submit the bids to indicate
23 whether they were interested or not in applying for a bid?

24 A Yes.

25 Q I'm going to turn your attention to paragraph 9. Is this

1 statement correct?

2 A No. I -- I misspoke on this --

3 Q By misspoke --

4 A -- on this affidavit.

5 Q Okay.

6 A Yes. I misspoke.

7 Q What -- what should it have stated?

8 A It should have stated that bids that were more than five
9 percent over the average were deemed unacceptable.

10 Q What does that 20 percent refer to?

11 A From the best of my knowledge, the 20 percent referred to
12 the combined Millennium and Westoil bid for L.A./Long Beach was
13 20 percent over the lowest bid.

14 Q Is the formula you use to determine acceptable or
15 unacceptable found on your spreadsheet?

16 A It is. It's -- yeah. If you scroll over the -- the cell,
17 it -- it's the formula.

18 Q Okay.

19 MR. HILGENFELD: Thomas, is there any way we could put up
20 272 onto the screen?

21 MR. RIMBACH: 272?

22 MR. HILGENFELD: Yeah. GC-272, the Excel sheet. Is that
23 the Excel sheet?

24 MR. RIMBACH: 217?

25 MR. HILGENFELD: Oh, is it 217? Whatever the Excel sheet

1 is.

2 THE WITNESS: Yes. 217.

3 MR. HILGENFELD: 217. Thank you.

4 MR. RIMBACH: Which tab?

5 Q BY MR. HILGENFELD: Ms. --

6 MR. RIMBACH: This one?

7 MR. HILGENFELD: Yeah.

8 Q BY MR. HILGENFELD: Ms. Beckman, what tab should --

9 A It's -- it's this one.

10 Q Okay. And that's the mat edits tab?

11 A Yeah. And actually, the cell that you have it on right
12 now is good. It shows there at the top in the toolbar, that --
13 the -- the formula used to -- to get the 87 percent.

14 Q And you're looking -- if we're looking, that would be
15 column H, row 2; is that correct?

16 A Correct.

17 Q And the formula in the formula box is =F2/average(F:)NF.
18 Who created that formula?

19 A I did.

20 Q What does F2 represent in the Excel chart?

21 A It's the bid, which I believe the top is OTB, but it's the
22 bid number in F -- in cell F2.

23 Q Okay. And for -- for row 2, what company is that?

24 A I -- I believe it's OTB.

25 Q And what is F2 number?

- 1 A It's their combined bid for L.A./Long Beach.
- 2 Q And on this sheet, what is it?
- 3 A \$3,114.26.
- 4 Q And why did you -- when it says, average(F:F), what does
- 5 that mean?
- 6 A It -- it formulates the average of all the bids, which are
- 7 all in column F.
- 8 Q How familiar are you with Excel?
- 9 A Pretty familiar.
- 10 Q How often do you use Excel?
- 11 A Probably every day.
- 12 Q Are you familiar with the creating formulas and other
- 13 information on Excel?
- 14 A Yes.
- 15 Q Okay. And how long have you been doing that?
- 16 A Oh, I don't know, 15 years.
- 17 Q If we go down to column H, row 8 -- in column H, row 8,
- 18 what formula is on this?
- 19 A It's the same formula as the previous bid.
- 20 Q Well, I'll be exact here. It may be the same formula, but
- 21 does it identify different rows and different columns?
- 22 A Oh, same formula, but yeah, different input information.
- 23 So same formula using the total bid for the area divided by the
- 24 average of all the bids.
- 25 Q And what column is this for?

- 1 A H. Oh, sorry. The -- F is the column of the -- of the
2 data that it's being collected from.
- 3 Q And that would be F, row 8?
- 4 A F, row -- yeah.
- 5 Q And what number is that in this cell?
- 6 A \$3,980.31.
- 7 Q And what does that indicate?
- 8 A That's the combined bid of Millennium and Westoil for
9 L.A./Long Beach.
- 10 Q So it would be the combined bid of Millennium in B, row 5
11 with Westoil in D, row 8; is that correct?
- 12 A Correct.
- 13 Q And if I go down to Harley Marine Gulf, what is -- I guess
14 on Westoil, what color is that box?
- 15 A Red.
- 16 Q What does that color indicate?
- 17 A That it's in the unacceptable range.
- 18 Q Okay. Where do you -- where -- how do you make a row red
19 or green or blue or purple?
- 20 A You just change the color.
- 21 Q Okay. Is that what you did in this case?
- 22 A Yes.
- 23 Q Okay. And if you go to column H, row 11, what does that
24 indicate on Harley Marine Gulf's bid?
- 25 A It indicates that their bids were really right at the

1 average.

2 Q And if the formula -- what formula row and column is being
3 pointed out in this formula?

4 A F11.

5 Q And is that the Harley Marine Gulf total for L.A./Long
6 Beach?

7 A Correct.

8 Q And what color is that box?

9 A Green.

10 Q And if you look down at Harley Marine New York on H, row
11 14, what was the percentage to average for Harley Marine New
12 York?

13 A They were two percent over the average.

14 Q And that indicates 102 percent?

15 A Correct.

16 Q And what formula -- what row and column is being
17 identified in this column?

18 A It is F14.

19 Q And is that the Harley Marine New York total column for
20 L.A./Long Beach?

21 A Correct.

22 JUDGE SANDRON: Do you have any more questions about that
23 document?

24 MR. HILGENFELD: I'm looking real quick, Your Honor.

25 JUDGE SANDRON: Okay. Go ahead.



1 MR. HILGENFELD: Yeah.

2 JUDGE SANDRON: I have a suggestion when you're done.

3 MR. HILGENFELD: That is all the questions I have on this
4 GC exhibit.

5 JUDGE SANDRON: Okay. Well, I think maybe this might be a
6 good time, although the documents already been admitted, but if
7 the General Counsel has any questions while the document is up
8 in the quasi voir dire, you know, it might be better if -- if
9 while the document is up, if you have them?

10 MR. RIMBACH: I don't, Your Honor, right now.

11 JUDGE SANDRON: All right.

12 MR. RIMBACH: Thank you.

13 MR. HILGENFELD: Thank you, Your Honor. Thank you,
14 Thomas. I appreciate it. Okay.

15 Q BY MR. HILGENFELD: Ms. Beckman, you had indicated that
16 you had sent notifications to the operating companies in
17 November 2020 by email; did I understand that correctly?

18 A Deeming if they were unacceptable or acceptable range?

19 Q Correct.

20 A Yes.

21 Q Okay.

22 MR. HILGENFELD: I -- I believe counsel already has this.
23 I apologize. I don't have other numbers. You should have this
24 in your binders, 25(a) through 25(e). These are the emails,
25 the actual emails.

1 JUDGE SANDRON: I have 25.

2 MR. HILGENFELD: And you should have A to E behind it.

3 JUDGE SANDRON: Let's see. If it's buried back here.

4 MR. HILGENFELD: No. I apologize.

5 JUDGE SANDRON: That's all right. So okay. You have

6 other --

7 MR. HILGENFELD: We have one copy.

8 MR. RIMBACH: I'd just like to add to this.

9 MR. HILGENFELD: Yeah. We -- we will make sure everyone
10 has a copy.

11 JUDGE SANDRON: All right. I want to take a look at it.

12 MR. RIMBACH: Oh I'm sorry. This is your only copy, you
13 said?

14 MR. HILGENFELD: It is.

15 MR. RIMBACH: Okay.

16 MR. HILGENFELD: Would it -- would it be possible maybe to
17 take ten minutes?

18 JUDGE SANDRON: Sure.

19 MR. HILGENFELD: I can email them to you, if that's
20 easier. Okay. Yeah.

21 MR. RIMBACH: I think that would be easier.

22 MR. HILGENFELD: Can we take --

23 JUDGE SANDRON: Yes.

24 MR. HILGENFELD: -- ten minutes and allow copies for
25 everything?

1 JUDGE SANDRON: Yes.

2 MR. HILGENFELD: I apologize.

3 JUDGE SANDRON: Yes. Off the record.

4 (Off the record at 9:44 a.m.)

5 JUDGE SANDRON: Back on the record. Respondent has
6 proffered Respondent's Exhibit 25(a) through (e) for
7 identification. General Counsel has noted that Respondent's
8 Exhibit 25(a) is already in the record as General Counsel's
9 Exhibit 150, but noted that some of the pages in the 25(a) that
10 we have before us are -- are not complete or -- I guess, that'd
11 be the best word. They're not complete as far as the document,
12 but those are in General Counsel Exhibit 150. But I understand
13 Mr. Hilgenfeld's purposes of having a complete understanding of
14 the document in which to proffer Respondent's Exhibit 25(a) as
15 well as the other documents. Do you want to explain what they
16 are?

17 MR. HILGENFELD: Certainly, Your Honor. Exhibit 25 are
18 attached letters from Ms. Beckman to the five operating
19 companies regarding acceptable and nonacceptable work.
20 Respondent's Exhibit 25(a) is an email from Jennifer Beckman to
21 Sven Titland, dated November 9th at 8:28 a.m., that contained
22 the attachment that is in Exhibit 25. You can also see the
23 full copy of this email in GC-150.

24 Respondent's Exhibit 25(b) is the email from Jennifer
25 Beckman to Brian Vartan, dated November 5th, 2020 at 2:02 p.m.

1 The attachment to this email is in Exhibit 25.

2 JUDGE SANDRON: Okay. Excuse me. I think I have -- I
3 don't think I have C. I have 25(a), (b) -- let me just make --
4 oh, here it is. But that has two pages.

5 MR. HILGENFELD: C has two pages.

6 JUDGE SANDRON: Let me see what the second one is. For
7 some reason, I only have one page. Oh, it's -- oh, it's two-
8 sided. Okay. Oh, I have 25(c). Go ahead.

9 MR. HILGENFELD: So Respondent's Exhibit 25(b) indicates
10 an attachment. The attachment to Mr. Vartan is in Exhibit 25.

11 Respondent's Exhibit 25(c) is an email from Jennifer
12 Beckman to Matt Hathaway, dated November 5th, 2020 at 2:03 p.m.
13 The exhibit attached to Exhibit 25(c) is in Respondent's
14 Exhibit 25, a letter from Ms. Beckman to Mr. Hathaway.

15 Respondent's Exhibit 25(d) is an email from Jennifer
16 Beckman to Brian Moore, dated November 9th, 2020 at 8:27 a.m.
17 The attachment to Respondent's Exhibit 25(d) is found in
18 Exhibit 20 -- Respondent's Exhibit 25, a letter from Ms.
19 Beckman to Mr. Moore.

20 Respondent's Exhibit 25(e) is an email from Jennifer
21 Beckman to Matt Hammond, dated November 9th, 2020 at 8:29 a.m.
22 The attachment to Respondent's Exhibit 25(e) is found in
23 Respondent's Exhibit 25, a letter from Ms. Beckman to Mr.
24 Hammond.

25 JUDGE SANDRON: Mr. Rimbach, any objections to those



1 documents?

2 MR. RIMBACH: No, Your Honor.

3 JUDGE SANDRON: They are received.

4 **(Respondent Exhibit Numbers 25(a), 25(b), 25(c), 25(d) and**
5 **25(e) Received into Evidence)**

6 MR. HILGENFELD: Ms. -- are we -- are you ready to
7 proceed, Your Honor?

8 JUDGE SANDRON: Yes.

9 MR. HILGENFELD: Okay.

10 **RESUMED REDIRECT EXAMINATION**

11 Q BY MR. HILGENFELD: Ms. Beckman, I -- I believe you
12 testified that the dates to a letter to Mr. Vartan and Mr.
13 Hathaway dated November 5th was not correct. In reviewing this
14 email, does this help refresh your recollection as to when you
15 sent letters to Mr. Vartan and Mr. Hathaway?

16 A It does. I apologize. I misspoke before. A lot of
17 dates, so yes. The letter -- the dates on the letters are
18 correct on the dates that they were sent.

19 Q Do you remember why you sent letters to Mr. Hathaway and
20 Mr. Vartan prior to sending letters to Mr. Titland, Mr. Moore,
21 and Mr. Hammond?

22 A Matt Godden wanted to review the latter three a little bit
23 further. The Millennium and Westoil bid were so -- were so far
24 out of range that he felt I should send them the letter
25 notifying them that their bids weren't acceptable.

1 Q And I'm going to turn your attention to GC Exhibit 26 or
2 216 -- excuse me. It should be in the group that you have
3 there. It should be the loose exhibit that you received
4 yesterday from Mr. Rochon (phonetic throughout).

5 A 216?

6 Q 216.

7 JUDGE SANDRON: Can you locate it?

8 THE WITNESS: I can.

9 JUDGE SANDRON: Oh, you have it? Okay.

10 THE WITNESS: Yes. Thank you.

11 MR. HILGENFELD: Is everybody there?

12 MS. YASSERI: Just one moment.

13 MR. HILGENFELD: No problem.

14 MR. RIMBACH: I have it. Thank you.

15 MR. HILGENFELD: Okay. Thank you.

16 Q BY MR. HILGENFELD: Ms. Beckman, this is -- GC Exhibit 216
17 is an email from you to Mr. Godden dated November 6th, 2020
18 regarding the bid comparison and it talks about crew costs
19 only. What was unique about the crew costs related to Harley
20 Marine New York or -- and Harley Marine Gulf as opposed to the
21 other companies?

22 A It wasn't so much what was unique about the crew costs,
23 but what was unique about their shoreside bid. It was just --
24 they have a lot more shoreside support -- or Harley Marine New
25 York had a lot more shoreside support than the other bidders

1 bid, so we just wanted to try to get it more apples to apples
2 by looking at the crew cost only.

3 Q Okay. Did that ultimately affect whether or not Harley
4 Marine New York or Harley Marine Gulf fell within the
5 acceptable range?

6 A It did not.

7 Q The General Counsel had asked, Ms. Beckman, if this was
8 the first time that you had conducted an RFP for Harley Marine
9 Financing. And I believe you had testified it was; is that
10 correct?

11 A Yes.

12 Q Have you conducted RFPs since this bid process?

13 A Yes.

14 Q And who have you conducted those RFPs for?

15 MR. RIMBACH: Objection. Outside the scope.

16 MR. HILGENFELD: It's -- you asked -- you asked about the
17 uniqueness of the RFP process in cross-examination. I'm
18 allowed to ask that it's not a unique process, it's occurred
19 since.

20 JUDGE SANDRON: Go ahead.

21 A I did a similar bid in 2021 for Harley Marine Financing.

22 Q BY MR. HILGENFELD: Ms. Beckman, the General Counsel had
23 asked regarding any contract negotiations that you had
24 performed for Glencore. Have you had any communications with
25 Glencore regarding work performed?

1 A Yes. Not in relation to the -- to the contract terms, but
2 yes. We've -- we've spoken.

3 Q And who do you speak with when you speak with Glencore
4 regarding work performed?

5 A Typically, it's their scheduler Priya.

6 Q Okay. Do you know Priya's last name?

7 A I do. But I couldn't pronounce it.

8 JUDGE SANDRON: And how is that spelled?

9 THE WITNESS: It's -- it's short for her longer name,
10 which I also cannot pronounce.

11 JUDGE SANDRON: Okay.

12 THE WITNESS: But Priya is spelled P-R-I-Y-A.

13 JUDGE SANDRON: Okay. I believe she testified. Okay.

14 Q BY MR. HILGENFELD: And would it be Ms. Thangaraj? I
15 believe, maybe?

16 A Sure.

17 Q And what is Ms. Thangaraj's position at Glencore?

18 A I believe she's a scheduler.

19 Q Have you ever negotiated any terms with Ms. Thangaraj?

20 A No.

21 Q Have you ever provided -- do you know what a KYC is?

22 A Yes.

23 Q What's a KYC?

24 A It stands for know your customer.

25 Q Have you ever provided a know your customer with Ms.

1 Thangaraj?

2 A Yes.

3 Q And what is a know your customer?

4 A It's a standard form that sometimes customers will ask you
5 to fill out so they can input your information into their
6 system.

7 Q And you recall performing a KYC for Ms. Thangaraj?

8 A Yes.

9 JUDGE SANDRON: All right. I don't know. Are we
10 getting --

11 MR. HILGENFELD: That -- that's fine, Your Honor.

12 JUDGE SANDRON: -- beyond the --

13 MR. HILGENFELD: Well, I think it goes to whether there's
14 any communications regarding contract terms, and so this is
15 just more fully getting through the record as to what
16 communication did involve with Glencore.

17 JUDGE SANDRON: Mr. Rimbach?

18 MR. RIMBACH: I believe it's beyond the scope.

19 JUDGE SANDRON: Well, I'll give Mr. Hilgenfeld a slight
20 bit more leeway, but then I think we are getting a bit too far
21 off from --

22 MR. HILGENFELD: Sure.

23 JUDGE SANDRON: -- redirect.

24 Q BY MR. HILGENFELD: Ms. Beckman, I -- I believe you just
25 testified to this, and I apologize. I just don't remember

1 what you said. What is a KYC?

2 A Know your customer.

3 Q What does it do?

4 A It's just like a generic profile for -- for vendors that
5 customers will ask us to fill out.

6 Q Do you recall filling one out that said Leo Marine was a
7 trading name for Harley Marine Financing?

8 MR. RIMBACH: Objection. Beyond the scope.

9 JUDGE SANDRON: Yes. I agree. I'm not going to allow
10 more documents --

11 MR. HILGENFELD: Okay.

12 JUDGE SANDRON: -- at this point.

13 Q BY MR. HILGENFELD: In -- in issuing -- I believe you
14 testified during examination that you do provide contact
15 regarding invoices and customer services to Glencore; is that
16 correct?

17 A Yeah. I interact with Glencore; I just didn't have
18 anything to do with their -- their contract negotiation.

19 Q And what entity invoices Glencore for work under the COA?

20 A Leo Marine does -- or sorry. Harley Marine Financing
21 does.

22 Q And who performs the operations of that work currently?

23 A Leo -- Leo Marine performs it, but yes, Harley Marine
24 Financing invoices.

25 Q Okay. And what entity has the contract relationship with

1 Glencore to your understanding?

2 A Harley Marine Financing.

3 Q Thank you, Ms. Beckman.

4 MR. HILGENFELD: No further questions.

5 JUDGE SANDRON: Mr. Rimbach, any recross?

6 MR. RIMBACH: Just briefly.

7 **RE-CROSS-EXAMINATION**

8 Q BY MR. RIMBACH: When did you speak with Mr. Godden with
9 respect to sending out the letters dated November 5th to --
10 November 5th, 2020 to Westoil and Millennium Maritime?

11 A When did I discuss that with Mr. Godden?

12 0 Yes.

13 A I believe it would have been on our November 4th Zoom.

14 Q What did he say exactly at that meeting about that?

15 A I couldn't tell you exact words, but it was that
16 Millennium and Westoil were so far outside the acceptable
17 range, that we should notify them of that.

18 Q Did he say -- you mentioned that he wanted to look into
19 the other three companies further?

20 A Yes.

21 Q Did he say why?

22 A Because they were closer to the acceptable range. So he
23 wanted to exclude the shoreside costs for those three, just to
24 get more apples to apples. And we excluded the shoreside costs
25 for Millennium and Westoil also. But Millennium and Westoil

1 were just so far out, that we thought it was -- you know, they
2 should be notified of -- of their unacceptable bids.

3 Q So at the time you sent the November 5th letters to
4 Westoil and Millennium Maritime, you weren't comparing apples
5 to apples?

6 A We were. Well, we were comparing the bids as they came in
7 with shoreside support. But we didn't designate what --
8 shoreside support was up to your interpretation. Some bidders
9 had a whole list of people, and some bidders had one person.
10 So we were comparing with shoreside in the first bid and then
11 in the third tab, the crew cost only was excluding the
12 shoreside costs.

13 Q So you took the bids as they came, but you didn't analyze
14 them to make sure it was the same across the board how they
15 were calculated in those bids?

16 A It was how they submitted their bids. So I can't edit
17 their bids. I can't tell them to reduce their shoreside costs.
18 I -- I didn't direct any bidder on how to bid. So it -- it was
19 across the board as they presented their bid.

20 Q And then did you have any discussions with Mr. Godden
21 about when to send the other three letters on November 9th,
22 2020 that are in Respondent's Exhibits 25(a), 25(b), and 25(e),
23 the one that correspond to the letters in Respondent's Exhibit
24 25?

25 A I -- I can't remember specifically, but I'm sure he told

1 me to go ahead and send those letters either on the 9th or --
2 or prior.

3 Q Was that by Zoom or by phone?

4 A I'm sure it was by phone.

5 JUDGE SANDRON: One question. There -- there seem to be a
6 wide variation of what the bids cited in terms of whether
7 they're off-shore support. Do you know why there was such a
8 variation in that?

9 THE WITNESS: It's just how the bidders presented their
10 bid. So it's just how they --

11 JUDGE SANDRON: I see.

12 THE WITNESS: -- interpreted the RFP. I didn't say in the
13 RFP the number of positions. I didn't limit the number of
14 positions. I just said crew these pieces of equipment with
15 shoreside managerial oversight.

16 JUDGE SANDRON: Okay.

17 THE WITNESS: Some bidders took that as ten positions.
18 Some people --

19 JUDGE SANDRON: Yeah.

20 THE WITNESS: -- some bidders took that as one position.

21 JUDGE SANDRON: And could you -- do you have any way to --
22 or knowledge of why -- they -- they submitted the different
23 numbers, but do you have any idea why some had, like, one and
24 others had, like, a number --

25 THE WITNESS: I -- I don't --

1 JUDGE SANDRON: -- if you know.

2 THE WITNESS: I don't. I didn't inquire -- I didn't
3 inquire as to why they were bidding certain positions
4 shoreside, no.

5 JUDGE SANDRON: I see. You never questioned --

6 THE WITNESS: I did not, no.

7 JUDGE SANDRON: So -- so whatever they decided they wanted
8 to put down, you accepted.

9 THE WITNESS: Exactly. Exactly.

10 JUDGE SANDRON: All right. Thank you. Go ahead.

11 Q BY MR. RIMBACH: That phone conversation with Mr. Godden
12 that you had on or about November 9th or just before November
13 9th, can you describe that conversation just to the best of
14 your recollection?

15 A I'm -- I'm sure it was brief that said go ahead and send
16 the letters to the other bidders.

17 MR. RIMBACH: No further questions. Thank you, Ms.
18 Beckman.

19 THE WITNESS: Thank you.

20 JUDGE SANDRON: Mr. Wojciechowski, any follow-up
21 questions?

22 MR. WOJCIECHOWSKI: Nothing from me. Thank you.

23 JUDGE SANDRON: Mr. Hilgenfeld?

24 MR. HILGENFELD: I would just ask that you take judicial
25 notice that November 9th, 2020 is a Monday.

1 JUDGE SANDRON: I will do so.

2 MR. HILGENFELD: Thank you. No further questions.

3 MR. RIMBACH: Also November 5th, 2020 is a Thursday. I
4 mean, they're in the emails.

5 JUDGE SANDRON: Okay. I'll take notice of that as well.

6 MR. RIMBACH: Thank you, Your Honor.

7 JUDGE SANDRON: Okay. Ms. Beckman, thank you. You're --
8 you're done testifying.

9 THE WITNESS: Thank you. Can I leave -- should I leave
10 all this here?

11 MR. HILGENFELD: Leave all that there, please. Thank you.

12 JUDGE SANDRON: I would just mention don't -- please don't
13 discuss your testimony with any other witnesses until after the
14 trial is over.

15 THE WITNESS: Absolutely.

16 JUDGE SANDRON: Thank you.

17 THE WITNESS: Thank you, Your Honor.

18 MR. RIMBACH: Are we off the record, Your Honor?

19 JUDGE SANDRON: We can go off the record. We're still on
20 the record, but did you want to --

21 MR. RIMBACH: Could we take our morning break maybe, Your
22 Honor?

23 MR. HILGENFELD: Now's a great time. We have our next
24 witness here. So I can go get them ready, and we can --

25 JUDGE SANDRON: All right. That's fine. We can take,



1 what, 15, 20 minutes? What would -- all right.

2 MR. RIMBACH: Thank you.

3 JUDGE SANDRON: Go off the record.

4 (Off the record at 10:21 a.m.)

5 JUDGE SANDRON: Okay. Back on the record.

6 You have your next witness, Mr. Hilgenfeld?

7 MR. HILGENFELD: Yes, Your Honor. Respondents are going
8 to call Dr. John A. Pearce, II.

9 JUDGE SANDRON: Dr. Pearce, if you could please come on
10 up. I'm Judge Sandron. I'm going to swear you in.

11 **JOHN A. PEARCE, II**

12 Having been duly sworn, was called as a witness herein and was
13 examined and testified as follows:

14 JUDGE SANDRON: If you'll please come up to the witness
15 stand and be seated? If you could state and spell your full
16 and correct legal name and give us an address, either a work
17 address or a residence address?

18 THE WITNESS: My name is John J-O-H-N, middle initial A,
19 last name Pearce, capital P-E-A-R-C-E, roman numeral II. My
20 address is 845 Springbank, that's one word, S-P-R-I-N-G-B-A-N-K
21 Lane, city, Wayne, W-A-Y-N-E, Pennsylvania 19087.

22 JUDGE SANDRON: All right. Thank you, Doctor.

23 Okay. The Respondent has proffered the vitae of Dr.
24 Pearce, which has been marked as Respondent's Exhibit 307.

25 I would assume General Counsel has no objection to the

1 vitae itself being admitted.

2 MS. YASSERI: We do not, Your Honor.

3 JUDGE SANDRON: All right. It is admitted.

4 **(Respondent Exhibit Number 307 Received into Evidence)**

5 JUDGE SANDRON: And then, I think we have discussed off
6 the record that, Mr. Hilgenfeld, you're going to go through the
7 vitae first, and then state on the record where you believe his
8 testimony will be relevant as far as the allegations in the
9 case. And then Ms. Yasseri shall have an opportunity to cross-
10 examine Mr. Pearce about his qualifications and then make a
11 determination of whether the General Counsel takes the position
12 that his testimony is basically irrelevant or that he's not an
13 expert on the areas in which Mr. Hilgenfeld states he intends
14 to question him.

15 And I do understand also that regardless of the General
16 Counsel's position today, the General Counsel -- in the event
17 the General Counsel does object either on relevance or on his
18 qualifications, that the General Counsel has no objection to
19 the witness testifying conditionally subject to later arguments
20 of whether his testimony should be considered or excluded; is
21 that correct?

22 MS. YASSERI: That's correct, Your Honor.

23 JUDGE SANDRON: All right.

24 So Mr. Hilgenfeld, why don't you go through Dr. Pearce's
25 vitae and then state on the record on why his testimony will be

1 relevant, and then we'll go from there.

2 MR. HILGENFELD: Thank you, Your Honor.

3 **DIRECT EXAMINATION**

4 Q BY MR. HILGENFELD: Dr. -- Dr. Pearce, were you retained
5 by Harley Marine Financing to provide an expert opinion in this
6 case?

7 A Yes.

8 Q Where are you currently employed?

9 A Eastern University.

10 Q And how long have you been employed at Eastern University?

11 A I'm entering my third year.

12 Q And what's your position at Eastern University?

13 A I'm a distinguished professor of business.

14 Q And what does it mean to be a distinguished professor in
15 residence?

16 A I teach only doctoral students. I teach a course a year,
17 and I'm principally there because my name recognition brings
18 credit to the university. Every month, since I joined Eastern
19 University, I've been the leading scholar at the university.
20 My works are more read than any other scholar. My articles are
21 cited more often than any other scholar for every single month.
22 This is good for the university. It helps to develop its
23 reputation as being a place of scholarly endeavor. That's why
24 I'm there.

25 Q Does that involve research as well?

1 A It does.

2 Q In what --

3 A I have in my -- it does. I apologize.

4 Q No, I apologize, Dr. Pearce.

5 Q In what research do you provide?

6 A I am a strategic management scholar. I do something that
7 is rare, believe it or not, in business schools. I know about
8 executive behavior, not only operating behavior, CEOs, CFOs,
9 also governance. I know about boards of directors. This is
10 unusual among university professors. University professors
11 specialize, more often than not, in business with businesses
12 that they can relate to, and those are businesses that they
13 know, and those are businesses that we would call small
14 businesses.

15 I deal principally in large businesses, businesses that have
16 assets of a billion dollars or more, and this is an unusual
17 thing to do because most of those kinds of businesses and their
18 executives don't have time for a scholar. I'm fortunate; they
19 have had time for me. I have written 44 books all on
20 management, most on strategic management. Those books have
21 been -- and articles, I do -- I've done 135 articles. That's a
22 lot. If you did one a year, you'd be a top flight scholar. I
23 do three a year, and so I have an opportunity to be better
24 recognized. There was a study done at Stanford --

25 JUDGE SANDRON: Oh, wait. I think maybe we --



1 THE WITNESS: I'm going too far?

2 JUDGE SANDRON: Yes.

3 THE WITNESS: I apologize.

4 JUDGE SANDRON: It's very interesting, but I --

5 THE WITNESS: Not that interesting.

6 JUDGE SANDRON: -- just think we want to kind of move
7 things along, but it is very interesting.

8 THE WITNESS: You're kind, but I don't mind you cutting me
9 off either. I'm kind of flying blind here. So I appreciate
10 your guidance. Yes, sir.

11 Q BY MR. HILGENFELD: Dr. Pearce, you used the term
12 "strategic management".

13 A Yes.

14 Q What does that mean?

15 A I believe, and people who do what I believe, that
16 organizations should have a top to bottom plan where every unit
17 is involved. My concern is for the front half of that process.
18 It's called strategy formulation. It says look at the
19 environment for business and the competitive environment for a
20 particular business and figure out how your company can have
21 some degree of success. Everybody talks about it. Not many
22 people study it seriously. I do. One of the things that I
23 work hard at doing is understanding the range of strategies
24 that are --

25 MS. YASSERI: Your Honor, I'm going to object to --

1 A -- available to --

2 MS. YASSERI: I'm sorry, Dr. Pearce. I'm going to object
3 as nonresponsive or can you please --

4 JUDGE SANDRON: Yeah.

5 MR. HILGENFELD: I think he responded and went -- went
6 beyond the response --

7 MS. YASSERI: Yes, as a narrative.

8 MR. HILGENFELD: Understood.

9 So Dr. Pearce, just try to answer the question I'm asking
10 you, and we will get into the other pieces.

11 THE WITNESS: I apologize again.

12 MR. HILGENFELD: No problem.

13 THE WITNESS: I will learn.

14 Q BY MR. HILGENFELD: I believe you testified that your
15 primary focus is strategy formulation; is that correct?

16 A Yes.

17 Q Briefly, what is strategy formulation?

18 A It's dividing the plan to guide all actions -- all major
19 actions within an organization.

20 JUDGE SANDRON: Perfect.

21 Q BY MR. HILGENFELD: Does that involve issues related to
22 securitization?

23 A It does.

24 Q What is securitization?

25 A Securitization is the process of converting an asset



1 usually with a ongoing stream of income into a marketable
2 security for investment purposes.

3 Q Does securitization involve, at times, special purpose
4 vehicles?

5 A Special purpose vehicles are most commonly associated with
6 a business's need or desire for securitization. Special
7 purpose vehicles provide a format, a set of guidelines,
8 accepted rules for how a business can securitize.

9 Q What is a special purpose vehicle?

10 A A special purpose vehicle is a subsidiary of a company
11 created to perform a particular function while reducing the
12 risk that the organization faces.

13 Q What is a whole business securitization?

14 A A whole business securitization is the regular process of
15 securitization applied to the entire business instead of just
16 one particular purpose.

17 Q Have you performed research into special purpose vehicles?

18 A I have.

19 Q What research have you performed?

20 A I have what appears to be the only law review article ever
21 published in a law review on special purpose vehicles and their
22 association with a primary benefit they have of making the SPV
23 bankruptcy remote.

24 Q And what is bankruptcy remote?

25 A Extraordinary steps are taken in creating an SPV to

1 insulate it from being associated with the parent organization
2 or any subsidiary of the organization when it faces bankruptcy.
3 In other words, the SPV almost literally cannot be drawn into
4 liability as a result of its existence.

5 Q How does a bankruptcy remote vehicle affect the stability
6 of a company?

7 MS. YASSERI: Objection, Your Honor. I think we're
8 getting into more substantive testimony about topics --

9 MR. HILGENFELD: I'll --

10 JUDGE SANDRON: Yes, maybe.

11 MS. YASSERI: -- I'm wondering if the questions can sort
12 of relate more towards Dr. Pearce's --

13 JUDGE SANDRON: I --

14 MS. YASSERI: -- qualifications, and then perhaps we can
15 address these other questions --

16 JUDGE SANDRON: All right. I think so.

17 MS. YASSERI: -- at a later time.

18 MR. HILGENFELD: I'll reframe, but I think it's important
19 to understand that this research involved the article he was
20 just talking about. So I'll reframe the question, Your Honor,
21 about the research he's conducted on this issue.

22 JUDGE SANDRON: Go ahead.

23 Q BY MR. HILGENFELD: Dr. Pearce, in your research article,
24 how did your research in that article relate to bankruptcy
25 remote vehicles?

1 A Could I ask you to rephrase that?

2 Q Certainly; I will certainly try. I'll reframe. If -- if
3 you take a look at Respondent's 307 which should be in front of
4 you, it's your vitae -- your curriculum vitae.

5 JUDGE SANDRON: Yes, I think that's --

6 THE WITNESS: This big one?

7 JUDGE SANDRON: Yes.

8 Q BY MR. HILGENFELD: If you go to --

9 A This is my -- my vitae?

10 Q I believe so, Dr. Pearce. If you go to page 4 --

11 A Oh, yes. The article you referenced writing, is that
12 in -- in this on page 4 here?

13 A It is, the fourth item listed.

14 Q At -- in the Hofstra Law Review?

15 A Yes, sir, that's correct.

16 Q If you can provide what research, as specific as you can
17 possible, about how this article related to the benefits of
18 securitization using a special purpose vehicle?

19 JUDGE SANDRON: Well, I don't know. I think maybe the
20 General Counsel's position is well taken if you're going to get
21 him to offer substantive testimony.

22 MR. HILGENFELD: If the General Counsel will stipulate
23 that the research that he has performed involved
24 securitization, whole business securitization, special purpose
25 vehicle securitization, and that he provided extensive review

1 and is the only one that has done that, then we'd be happy to
2 move on --

3 JUDGE SANDRON: All right.

4 MR. HILGENFELD: -- but if they're going to contest the
5 adequacy of the research that he has performed on this topic, I
6 believe we have to go into the topic that went further.

7 JUDGE SANDRON: Well, I -- I don't know. I think the
8 General -- I mean, General Counsel might be able to agree that
9 he did research that led to the article. I'm not sure that
10 they can stipulate it's the only article on the subject.

11 MR. HILGENFELD: Fair enough, Your Honor.

12 MS. YASSERI: Your Honor, we were actually going to enter
13 Mr. -- Dr. Pearce's article in as evidence.

14 JUDGE SANDRON: Okay.

15 MS. YASSERI: So if Mr. Hilgenfeld would just like to do
16 that, and we can move on and just focus the inquiries on Dr.
17 Pearce's other qualifications.

18 MR. HILGENFELD: Certainly, if we can put the article in
19 as evidence as part of his qualifications.

20 MS. YASSERI: There's no need to sort of go through the
21 topics covered in the article.

22 JUDGE SANDRON: Yes.

23 MR. HILGENFELD: That's fine. What GC exhibit?

24 MS. YASSERI: It would be, I believe it was 294. 294.

25 MR. HILGENFELD: 294, okay. Thank you.

1 JUDGE SANDRON: Okay.

2 MR. HILGENFELD: Understood.

3 JUDGE SANDRON: Do you want to introduce it now or hold
4 off?

5 MS. YASSERI: Yeah.

6 MR. HILGENFELD: Sure.

7 JUDGE SANDRON: And this is what, General Counsel's?

8 MS. YASSERI: 294, Your Honor.

9 JUDGE SANDRON: 294?

10 MS. YASSERI: Yes.

11 JUDGE SANDRON: 4, okay. It's identified. I take it
12 there's no objection. So General Counsel's Exhibit 294 is
13 received.

14 **(General Counsel Exhibit Number 294 Received into Evidence)**

15 MS. YASSERI: Thank you.

16 MR. HILGENFELD: Thank you.

17 Q BY MR. HILGENFELD: Dr. Pearce, I won't ask you any
18 questions about your -- the article. So we can just set that
19 aside. How long have you been a professor?

20 A Since 1974.

21 Q And how long has that involved being a professor related
22 to strategic management?

23 A Since 1976.

24 Q What is your educational background?

25 A I have an undergraduate degree in management from Ohio



1 University, an MBA from the University of Pittsburgh, and a PhD
2 from -- in business from Penn State University.

3 Q Your curriculum vitae lists as a VSB endowed chair in
4 strategic management, entrepreneurship at Villanova School of
5 Business.

6 JUDGE SANDRON: Where -- where are you looking?

7 MR. HILGENFELD: On page 1 of Respondent's 307.

8 JUDGE SANDRON: Yes, I see.

9 Q BY MR. HILGENFELD: What does mean to be an endowed chair?

10 A I was the first endowed chair at Villanova. It means at
11 that institution that \$1,000,000 was provided to support my --
12 extra -- extra support to support my research activities.
13 Those things would include data collection, computer time for
14 analysis, graduate assistance, et cetera.

15 Q Would that -- I guess first off in your teaching at
16 Eastern University, has that involved research in teaching with
17 issues related to securitization?

18 A Tangentially, yes.

19 Q How so?

20 A One of the major groups of strategies has to do with
21 bankruptcy. I'll talk fast so you can cut me off if I go too
22 long. When I first began writing about strategies --

23 JUDGE SANDRON: Yeah, I think that --

24 THE WITNESS: Okay.

25 JUDGE SANDRON: -- I assume what you're going to say it

1 probably was going to be asked when you're actually testifying
2 on, you know --

3 THE WITNESS: Thank you, sir.

4 JUDGE SANDRON: But I -- I don't think we need to go too
5 much more into -- I mean, obviously, Dr. Pearce is an eminent
6 academician, and I think maybe if the General Counsel has
7 questions about the vitae -- I mean it speaks for itself as far
8 as his eminent background. So I think maybe this would be a
9 good time, Mr. Hilgenfeld, if you can state on the record
10 before the General Counsel asks any questions what you intend
11 to have him testify on.

12 MR. HILGENFELD: I believe, Your Honor, and I -- we can do
13 this before or after, but I believe the fact that he's provided
14 prior expert testimony may help your -- provided prior expert
15 testimony on some of those issues that is not necessarily in
16 his curriculum vitae.

17 JUDGE SANDRON: All right. Well, I think if you want to
18 go beyond what's in it -- and the General Counsel and I can
19 review the vitae, if you want to go beyond that, that's fine.

20 MR. HILGENFELD: Okay.

21 JUDGE SANDRON: I mean, things that are not already
22 contained herein because there are obviously a lot of
23 publications, a lot of specialized experience that -- that's
24 clear from the vitae. So why don't you, if you want to ask him
25 beyond that, and you think that might have an impact on whether

1 he's accepted as an expert witness, go ahead.

2 MR. HILGENFELD: Yeah. Can I -- before we do that, can I
3 ask just a few clarify -- clarifying questions about what the
4 vitae means. It may mean obvious to you. It's not
5 necessarily -- it wasn't obvious to me when I read the vitae,
6 just to get clarification.

7 JUDGE SANDRON: Okay. Go ahead.

8 Q BY MR. HILGENFELD: Dr. Pearce, what is a Fulbright
9 appointment?

10 A The International Association of Scholars makes two kinds
11 of awards, one to students and one to faculty. One appointment
12 is a real plus on a resume. Two is next to impossible. I have
13 had three. I have worked for government agencies in three
14 countries to provide an enriching experience. I consult for
15 free. Because of the Fulbright, I consult with governmental
16 and quasi-governmental agencies while I'm overseas.

17 Q Thank you, Dr. Pearce. On page 57 of your vitae, you have
18 a listing of honors and recognitions.

19 A Yes, sir.

20 Q And it indicates you've been recognized by Stanford
21 University as ranking in the world's top two percent of
22 scientists. What does that mean?

23 A This for me was a very special recognition. It's top
24 two percent of scientists. This is all fields, hard sciences,
25 liberal arts, business, engineering, and because of my impact

1 on the field I was recognized as being on the list of top two
2 percenters. As a clue to why that included me, you know, the
3 little dotted things listed underneath, it says I've been cited
4 29,455 times. I've now been cited 30,850 times. My work is
5 comparatively prominent in business.

6 JUDGE SANDRON: Well, I think you're modest. I think it's
7 certainly beyond moderate. But congratulations on your award.

8 THE WITNESS: Thank you, sir.

9 Q BY MR. HILGENFELD: Dr. Pearce, have you been asked to
10 provide expert testimony in prior cases related to strategic
11 management?

12 A I have. I'm a good luck charm for settlement because --
13 because --

14 JUDGE SANDRON: You can try it here.

15 Q BY MR. HILGENFELD: Yeah, your streak may be running out,
16 Dr. Pearce.

17 A Because only once before have I gone before a judge. And
18 the -- the range of topics include OSHA violations, a major
19 case involving river contamination, cases about how managers
20 are abused in the workplace, and the like. So it's as broad a
21 range of topics as strategic management is.

22 Q And -- and I'm going to walk through a few of these for
23 your Dr. Pearce. Did you provide testimony in Kerdra Windrix
24 v. Kia Motors Corporation?

25 JUDGE SANDRON: Could you just spell that to make sure we

1 get the right --

2 MR. HILGENFELD: Certainly. Kerdra, K-E-R-D-R-A, Windrix,
3 W-I-N-D-R-I-X, v. Kia, K-I-A, Motors Corporation.

4 JUDGE SANDRON: Can you just give maybe the -- the -- the
5 court it was or --

6 MR. HILGENFELD: It's case number C06-01058. I -- I don't
7 have the court with that.

8 JUDGE SANDRON: I see. That -- it's not in the vitae?

9 MR. HILGENFELD: It is not in the vitae.

10 JUDGE SANDRON: Oh, okay. Go ahead. Whatever you have.

11 A I cannot recall that case.

12 Q BY MR. HILGENFELD: Okay. Do you recall providing a list
13 of cases that you'd provided expert testimony on?

14 A I do.

15 Q Okay.

16 A And then, I'm sure it's included.

17 MR. HILGENFELD: May I approach to refresh?

18 JUDGE SANDRON: Yes.

19 MR. HILGENFELD: Okay. Thank you.

20 MS. YASSERI: Can we have a copy?

21 MR. HILGENFELD: You -- you can make a copy of that. I
22 don't have an extra copy.

23 MS. YASSERI: Okay.

24 JUDGE SANDRON: Do -- do you want a copy and then make it
25 an exhibit?

1 MS. YASSERI: Yes. Yeah.

2 JUDGE SANDRON: May -- maybe that would be --

3 MS. YASSERI: I think -- can we go off record, Your Honor?

4 JUDGE SANDRON: Yes. Off the record.

5 (Off the record at 11:16 a.m.)

6 JUDGE SANDRON: Back on the record.

7 The Respondent is submitting as Respondent's Exhibit 309,
8 the cases in which Dr. Pearce previously offered expert witness
9 testimony.

10 JUDGE SANDRON: Any objection?

11 MS. YASSERI: No, Your Honor.

12 JUDGE SANDRON: Respondent's Exhibit 309 is received.

13 **(Respondent Exhibit Number 309 Received into Evidence)**

14 JUDGE SANDRON: So I think then, unless you have anything
15 additional, do you want to then, Mr. Hilgenfeld, go to the next
16 step, which is what you want the witness to be able to testify
17 on?

18 MR. HILGENFELD: Certainly, Your Honor.

19 Your Honor, we're going to ask Dr. Pearce to proffer an
20 expert opinion under CR-702, on the following topics.

21 One, describing and defining what a special purpose
22 vehicle is; the purpose; the relatedness to securitization;
23 general benefits of a special purpose vehicles; protections to
24 investors; and the commonness of special purpose vehicles.

25 Two, explain the Doctor's doctrine of separateness for a



1 special purpose vehicle and its parent company.

2 Three, on the doctrine of separateness for a special
3 purpose vehicle and its parent company, whether Harley Marine
4 Financing has remained separate through the securitization,
5 namely the securitization documents identified in the
6 management agreement; the base indenture agreement; the
7 transition agreement; and a jointly furnished services
8 agreement.

9 Four, on whether an SPV can operate without employees, and
10 explain the importance of the management agreement and Harley
11 Marine Financing's operation agreement as it relates to special
12 purpose vehicles.

13 Five, on the necessity of Harley Marine Financing
14 protecting its assets apart and separate from the parent
15 company, Centerline Logistics Corporation and any operational
16 subsidiaries such as Westoil Marine Services.

17 Six, I believe -- on the appropriateness of Harley Marine
18 Financing conducting a bid process to evaluate operating
19 companies in a method to protect investors.

20 Those are the six topics we tend to proffer Dr. Pearce on.

21 JUDGE SANDRON: Okay. I -- I will turn to Ms. Yasseri.

22 I -- I would gather, Ms. Yasseri, that you don't contest that
23 the witness is a -- an expert in strategic management, as such,
24 correct?

25 MS. YASSERI: That's correct. As the witness had defined

1 during his testimony of what includes strategic management.

2 JUDGE SANDRON: Right. So on the subject, there --
3 there's no dispute that he's an expert. Now, as far as what
4 Mr. Hilgenfeld has proffered will be his testimony, what is the
5 General Counsel's position?

6 MS. YASSERI: I just wanted to clarify, Your Honor. With
7 respect to our -- our position, it's that he's an expert on the
8 subject of strategic management. That's not the same as the
9 topics that were --

10 JUDGE SANDRON: Yes.

11 MS. YASSERI: -- provided by Mr. Hilgenfeld a few minutes
12 ago. So I -- I just want to --

13 JUDGE SANDRON: Yes. I --

14 MS. YASSERI: -- note that distinction.

15 JUDGE SANDRON: -- we're -- we're talking about his
16 general qualifications as an expert, without necessarily making
17 a -- a conclusion as to how his testimony will bear on the
18 entities that are at issue here.

19 So do -- I understand the General Counsel is not willing
20 to agree that he is an expert on the subjects that would have a
21 bearing here, but that you don't object to his going forward
22 with the testimony, subject to a ruling later, that it -- it
23 should not be considered?

24 MS. YASSERI: That's correct, Your Honor. But I would --
25 the General Counsel would like the opportunity to voir dire Dr.

1 Pearce with respect to some qualification inquiries --

2 JUDGE SANDRON: Yes.

3 MS. YASSERI: -- before allowing Mr. Hilgenfeld to proceed
4 with the examination on a substantive basis.

5 JUDGE SANDRON: All right. Go ahead.

6 MS. YASSERI: Thank you.

7 **VOIR DIRE EXAMINATION**

8 Q BY MS. YASSERI: Good morning, Dr. Pearce. My name is
9 Sanam Yasseri, I'm one of the counsels representing the General
10 Counsel of the National Labor Relations Board. Thank you for
11 being here today. I welcome you to Los Angeles; I understand
12 you came all the way from Pennsylvania. So I hope you're
13 enjoying our -- our nice weather today.

14 You mentioned, Dr. Pearce, that you are a professor at
15 Eastern University in Pennsylvania, correct? And in that role,
16 you --

17 THE COURT REPORTER: I didn't hear his answer.

18 JUDGE SANDRON: Oh, yes. I -- I think you asked him a
19 question. Or were you just making a statement?

20 MS. YASSERI: I did -- I did ask -- I did ask a question,
21 Your Honor.

22 JUDGE SANDRON: Okay.

23 So then you've got to answer if --

24 A Yes, I am.

25 JUDGE SANDRON: So it's on the record.

1 Q BY MS. YASSERI: And in that role, you teach classes and
2 mentor students?

3 A I do.

4 Q Beyond teaching and working with students, you also write
5 articles and edit various academic journals?

6 A I do.

7 Q And the journal work is part of your career in academia;
8 is that right?

9 A It is.

10 Q And you've been in academia when you started, I believe,
11 looking at your vitae, as a graduate teaching assistant?

12 A It's true.

13 Q And you went essentially from one academic job to
14 another --

15 A Yes.

16 Q -- is that right? Dr. Pearce, have you ever practiced any
17 type of law?

18 A I'd like to say, yes; and then you can change it to a no,
19 if you want to.

20 Q Okay. Please explain.

21 A I decided that to understand the job of an executive in
22 business engaged in strategic management, I had to have a much
23 stronger understanding of the law than I did. And so the short
24 story is I decided to write as an attorney would; I write for
25 Law Review journals. I've published thirteen articles on

1 various topics, all listed in vitae; that would be enough to
2 get me tenured at many universities as an attorney. I have had
3 no formal training, classroom training in the law. I have not.

4 Q That was my next question. Have you ever been to law
5 school?

6 A No, I have not.

7 Q Okay. And you don't have a juris doctorate?

8 A I don't.

9 Q And you're obviously then not a licensed attorney.

10 A Licensed? No.

11 Q Have you ever worked in bankruptcy court?

12 A No.

13 Q Have you ever worked in any state court or federal court
14 in any capacity?

15 A Work -- been employed? No.

16 Q No. Have you ever worked for the Securities and Exchange
17 Commission?

18 A No.

19 Q Have you ever worked for the Internal Revenue Service?

20 A No.

21 Q Have you ever worked as a staff member for any legislator?

22 A No.

23 Q Have you ever written any laws related to special purpose
24 vehicles?

25 A No.

1 Q Are you a certified public accountant?

2 A No.

3 Q Have you ever taught any classes in accounting?

4 A No. If I may --

5 Q I -- I'll --

6 A The answer is, I teach accounting in every class. I teach
7 finance in every class.

8 Q Okay.

9 A But I do not teach an accounting class.

10 Q Understood. Thank you. And if I did my math right, Dr.
11 Pearce, you've been an academic for about over fifty years; is
12 that accurate?

13 A Fortunately, I can tell you it's not been quite that long.

14 Q No? I overestimated. My apologies. Well, let me -- let
15 me ask it this way. During your -- your career, you've only
16 published one article on special purpose vehicles --

17 A Right.

18 Q -- is that right? Was that the 2011 article?

19 A I wish you wouldn't say it that way. I've published more
20 articles on special purpose vehicles and their relationship to
21 bankruptcy than anyone I know.

22 Q Okay.

23 A It's one.

24 Q Okay. So let me follow up. We have your vitae in the
25 record. Can you direct us to some of the other articles in

1 your vitae that cover the topic of special purpose vehicles,
2 other than the one that Mr. Hilgenfeld asked you about?

3 A None.

4 Q None? Okay. I've had a chance to sort of scan your
5 vitae, Dr. Pearce, and I -- I don't see any mention of the
6 National Labor Relations Board; is that right? Have you --
7 have you done any work with regard to the National Labor
8 Relations Board?

9 A No, I have not.

10 Q What about with respect to the National Labor Relations
11 Act, which is the statute that's enforced by the NLRB?

12 A No, I have not.

13 Q No? I also did not see any reference to any type of work
14 related to unions or organized labor; am I right? Have you
15 done any work with respect to organized labor or unions?

16 A I have not published on that topic. No, I have not.

17 Q So you're not an expert in the National Labor Relations
18 Act?

19 A No.

20 Q Are you familiar with the NLRB's case precedent on what
21 constitutes an alter ego?

22 A I am not. When you limit it to the National Labor
23 Relations Act and part of that organization, I am not.

24 Q Okay. Are you familiar with the NLRB's case precedent on
25 what constitutes a single employer?

1 A No. These are -- these are terms that have much broader
2 use in the law than in NLRB.

3 Q I understand. But my question was limited to the National
4 Labor Relations Board.

5 A Then my answer of no, is a good one.

6 Q Thank you. Have you ever testified in a National Labor
7 Relations Board proceeding?

8 A No.

9 Q This would be your first time?

10 A It would.

11 Q Have you ever testified at any administrative hearing? I
12 know you mentioned OSHA; you had a case regarding OSHA --

13 A Yes. But I did not testify in that case.

14 Q Okay. Have you ever testified, in any state or federal
15 court on the topic of special purpose vehicles?

16 A No.

17 Q Okay. Have you ever given any lectures specifically on
18 the topic of special purpose vehicles?

19 A Yes.

20 Q Okay. And when was the most recent time that you did
21 that?

22 A I would have to check. It would be 2011.

23 JUDGE SANDRON: Do you remember where that was -- where
24 you spoke?

25 THE WITNESS: Can I refer to my vitae?

1 JUDGE SANDRON: Is it in the vitae?

2 THE WITNESS: It would be, yes, sir.

3 JUDGE SANDRON: All right. Check it if you want to look
4 through. That might refresh your recollection.

5 THE WITNESS: On page 24, the second item from the bottom.
6 That proceeding provides print evidence of the material that I
7 talked about, which was material from -- related to the Hofstra
8 Law Review article.

9 Q BY MS. YASSERI: Dr. Pearce, are you referring to the
10 reference to, "supplier problems when corporate customers
11 declare bankruptcy"?

12 A Yes.

13 Q Okay. And just -- just to clarify. In this proceeding
14 you had provided a -- a lecture. Can you just sort of explain
15 to me again your involvement?

16 A When -- this is an organization where you need to present
17 research that you have done, that is likely to soon be
18 published. And so the room is filled with people who are
19 interested in those issues. Or it's filled, 30 to 50 people is
20 all, and that's what that was about.

21 Q Okay. And -- and the people who were in attendance at
22 that conference, were they other academics?

23 A They were other academics. Most -- the -- the middle
24 group was attorneys.

25 Q Okay. And that was back in March of 2010?

1 A Yes.

2 Q Now, I see also in your vitae on page 1, you have a PhD in
3 organizational behavior, with a major in strategic management
4 and then a minor in industrial psychology and consumer
5 behavior, and also an MBA in behavioral science. What -- what
6 exactly is organizational behavior, and forgive me if you've
7 already addressed it with Mr. Hilgenfeld. I don't -- I don't
8 recall that you did.

9 A Organizational behavior is the study of people in
10 organizations, how their work is structured; how they're
11 rewarded; how they're trained; how they are developed.

12 Q Okay. And what about consumer behavior; what exactly is
13 that?

14 A Consumer behavior is the study of how consumers behave.
15 What do they like? How do they value things? A psychological
16 investigation of buyers.

17 MS. YASSERI: Your Honor, at this time, the General
18 Counsel is going to object to -- to Dr. Pearce's testimony on
19 the grounds that Dr. Pearce is not properly qualified to
20 testify as an expert on the subject of special purpose vehicles
21 and that such testimony is not relevant to the underlying issue
22 of whether Respondent Centerline, Harley Marine Financing, and
23 Westoil unlawfully reassigned bargaining unit work.

24 It's unclear to the General Counsel how Dr. Pearce's
25 testimony on special purpose vehicles has anything to do with

1 the issue of whether the Respondents violated the National
2 Labor Relations Act. Notwithstanding that position, we do not
3 object to the admission of Dr. Pearce's testimony on a
4 provisional basis, subject to allowing us to get the -- giving
5 us the opportunity to argue in our post-hearing brief.

6 JUDGE SANDRON: So I understand that your -- your
7 objections are twofold. One, is to his qualifications to
8 testify about, we'll say SPVs as a subject. And then, assuming
9 that he is an expert witness on that, that the proffered areas
10 of his testimony would not be relevant to our proceedings.

11 MS. YASSERI: Correct.

12 JUDGE SANDRON: That -- it's noted on the record. We will
13 then proceed accordingly, and allow Mr. Hilgenfeld to go ahead
14 and examine him as a witness. And the General Counsel of
15 course can, without waiving your objections, cross-examine him
16 as well. And the parties can, at a later point, argue whether
17 or not his testimony should be considered.

18 MR. HILGENFELD: Thank you, Your Honor.

19 And just so I'm clear, from the Respondent's response to
20 General Counsel, we'll just make our response in a briefing.
21 Is that what you'd like, to their objection? I just want to
22 make sure we're not waiving our ability to respond to what
23 General Counsel has said.

24 JUDGE SANDRON: I don't know if you need to.

25 MR. HILGENFELD: I don't think I do. I just don't want to

1 waive it. That's -- that's my only concern.

2 JUDGE SANDRON: I don't know if you -- if you feel -- if
3 you want to -- well, I think you've already said -- taken the
4 position that is, he's an expert on the subject and he's
5 testimony is relevant. So I don't think you need to respond
6 now to the General Counsel's --

7 MR. HILGENFELD: Thank you.

8 JUDGE SANDRON: -- contrary arguments. It -- it's clear
9 on the record --

10 MR. HILGENFELD: Thank you, Your Honor.

11 JUDGE SANDRON: -- your position.

12 MR. HILGENFELD: Your Honor, it's about 11:45 right now.
13 Rather than go for 15, 20 minutes with Dr. Pearce, we'd prefer
14 to take lunch and come back earlier.

15 JUDGE SANDRON: All right.

16 MS. YASSERI: That's fine.

17 JUDGE SANDRON: That -- that might be -- so should we take
18 an hour like we've been doing? So we'll go off the record till
19 12:45. Okay.

20 MR. HILGENFELD: Thank you.

21 JUDGE SANDRON: Have a good lunch.

22 THE WITNESS: Thank you.

23 (Off the record at 11:40 a.m.)

24 JUDGE SANDRON: Back on the record.

25 Mr. Hilgenfeld?

1 MR. HILGENFELD: Thank you, Your Honor.

2 **RESUMED DIRECT EXAMINATION**

3 Q BY MR. HILGENFELD: Good afternoon, Dr. Pearce. Dr.
4 Pearce, I'm going to ask you some questions here regarding
5 special purpose vehicles and securitization. Okay? And Dr.
6 Pearce, in looking at special purpose vehicles, are you
7 familiar with the term an asset-backed security?

8 A Yes.

9 Q Is that sometimes referenced by an acronym, ABS?

10 A Yes.

11 Q What is an asset-backed security?

12 A And asset-backed security is one that is supported by
13 assets, so that an investor, who buys an asset-backed security,
14 has reason to believe that there is sufficient collateral to
15 guarantee repayment or payment on the bond.

16 Q And what kind of investors are we talking about?

17 A What needs to be said is that securitization addresses a
18 tremendous range of issues, with a tremendous range of
19 objectives, supported by SPVs, special purpose vehicles, of a
20 wide variety of descriptions. And so it helps me if I can
21 answer specifically with regard to Centerline and its --

22 MS. YASSERI: Your Honor, I'm going to object as
23 unresponsive. I believe the question was what kind of
24 investors.

25 MR. HILGENFELD: I'll ask a follow-up question.



1 JUDGE SANDRON: Yeah, maybe you can --

2 MR. HILGENFELD: Yeah.

3 JUDGE SANDRON: -- narrow it.

4 Q BY MR. HILGENFELD: Let's -- are you familiar with the
5 investors involved in the securitization related to Harley
6 Marine Financing and Centerline Logistics?

7 A I am.

8 Q What types of investors were involved with that?

9 JUDGE SANDRON: Well, I think you need to lay a foundation
10 for his -- his knowledge -- you know, specific knowledge.

11 Q BY MR. HILGENFELD: And in -- in providing testimony
12 today, were you provided access to documents?

13 A I was.

14 Q What documents did you review in preparation?

15 A So a range. I know -- I have had an opportunity to read
16 and study the documents that were foundational, that helped to
17 establish a special purpose vehicle. I have read documents
18 talking about the creation of securities, by a third party in
19 the process. I have read about transitional -- I've read
20 transitional documents talking about how, in the very initial
21 days of the SPV, managerial issues were addressed. I've read
22 articles -- I've read documents talking about the expectations
23 of the SPV for performance by its manager. In this case, a
24 manager is not a person; the manager is an organization. I
25 have read about -- I've read documents about how subsidiaries

1 of Centerline have agreed to participate in a large list of
2 activities, in a coordinated way, under the direction of a
3 chosen manager; each of them choosing. And others.

4 JUDGE SANDRON: Can you just give us a rough idea of how
5 much time you spent reviewing all of those documents? How --
6 how much total you spent in reading these various documents?
7 Approximately?

8 THE WITNESS: 50 hours minimum. They are -- they're --
9 the documents I read were extremely well-written, very
10 carefully worded, but didn't require a lot of diagnosis. They
11 were not statistically augmented. So I didn't have to look for
12 meaning, I didn't have to second guess numbers. So 50 hours
13 spent in reading, is a lot of hours for me.

14 JUDGE SANDRON: And how did you get these documents?

15 THE WITNESS: Those documents were provided to me by
16 counsel.

17 JUDGE SANDRON: And was that -- were they hardcopies or
18 emails?

19 THE WITNESS: No, they were emails. And --

20 JUDGE SANDRON: No, go ahead.

21 MR. HILGENFELD: No, no answer.

22 THE WITNESS: Well, we -- we've provided the government
23 with all of the documents that I was given to read. A -- a
24 list of those documents.

25 JUDGE SANDRON: Have you seen that?

1 MS. YASSERI: I'm sorry, Your Honor. I -- I believe Dr.
2 Pearce said, "we have provided" --

3 JUDGE SANDRON: Oh, was this -- what is this?

4 MR. HILGENFELD: This is Respondent's exhibit. This is
5 Dr. Pearce's report where the documents are listed.

6 JUDGE SANDRON: Oh, okay. So I -- okay.

7 MR. HILGENFELD: It's Respondent's Exhibit 308.

8 JUDGE SANDRON: Oh, I see. I didn't --

9 THE WITNESS: They -- they are -- they are shown on the
10 very last page, Appendix C.

11 JUDGE SANDRON: So -- so this shows on what documents you
12 relied?

13 THE WITNESS: Yes, sir. That's correct.

14 JUDGE SANDRON: Okay.

15 Have you seen this report? She saw it?

16 MS. YASSERI: Yes. Yes, I have, Your Honor.

17 JUDGE SANDRON: Are you offering the report?

18 MR. HILGENFELD: We -- we will be offering the report. I
19 was anticipating doing it at the conclusion of his testimony.

20 JUDGE SANDRON: All right, that's fine.

21 MR. HILGENFELD: But we will be offering it.

22 JUDGE SANDRON: No, go ahead.

23 And then General Counsel can voir dire.

24 Q BY MR. HILGENFELD: And what is listed in your report, Dr.
25 Pearce in Appendix C, are these the documents that you reviewed

1 in preparation?

2 A Yes, they are.

3 Q And do these documents include securitization information
4 related to Harley Marine Financing?

5 A They certainly did.

6 Q And I probably jumped the gun a little bit. And I
7 apologize, Dr. Pearce, and we're going to -- I'm going to take
8 a small break and then we will get in -- back into this. So I
9 apologize. Prior to agreeing to provide testimony in this
10 matter, have you ever had a prior relationship with myself or
11 any other people at Davis Grimm Payne & Marra?

12 A No, I have not.

13 Q Prior to agreeing to provide testimony in this case, have
14 you ever had a prior relationship with Harley Marine Financing,
15 directly or indirectly, or any of its officers or directors?

16 A No, I have not.

17 Q Prior to agreeing to provide testimony in this case, have
18 you ever had a prior relationship with Centerline Logistics or
19 any -- directly or indirectly, or any of its officers or
20 directors or any other individuals?

21 A No, I have not.

22 Q Prior to providing testimony in this case, have you ever
23 had a prior relationship with any other Centerline affiliated
24 company, or any of its officers or directors, directly or
25 indirectly, to your knowledge?

1 A No, I have not.

2 Q Okay. Going back to Appendix C. Dr. Pearce, what are the
3 documents that would talk about who the investors are related
4 to Harley Marine Financing in Appendix C? You can -- you can
5 look at --

6 A No, I'm sorry. I'm not sure. What was the question?

7 Q Certainly --

8 A Who were the investors?

9 Q The types of investors involved in the securitization,
10 which documents would show that information?

11 A I'm sorry. I don't know.

12 Q Okay. Did you review documents that had that information?

13 JUDGE SANDRON: If you recall.

14 THE WITNESS: What I recall -- thank you, sir. I do
15 recall reviewing that, but I don't know that it was in these
16 documents, if -- whether it was from an email. And I
17 specifically asked for that information and I did receive it,
18 but I don't know from where.

19 Q BY MR. HILGENFELD: Fair enough. And what do you recall
20 the investors involved in the securitization, to be?

21 A I'm getting too technical, maybe, but investors involved
22 in the securitization, I wouldn't have an answer to that. But
23 if you ask me who were the investors involved in purchasing the
24 bonds, that is what I have some knowledge about.

25 Q And that would be a better question. I apologize, Dr.

1 Pearce. I guess let's take a step back a little bit --

2 A Okay.

3 Q -- and get some groundwork here. How -- what is a bond?

4 A Bond is a contract between a lender and a borrower, to pay
5 a specified interest on a periodic basis, and return of
6 principal by the end of a specified investment period. So a
7 bond looks like a savings bond, which people can relate to.
8 It -- it -- it is nearly identical to a commercial bond. So
9 when you buy mutual funded bonds, you're buying that kind of an
10 instrument. The government is a major, major fundraiser by
11 issuing that kind of bond.

12 Q And in looking at a special purpose vehicle --

13 A Yes.

14 Q -- how do bonds relate to with special purpose vehicles?

15 A Um-hum. So most special purpose vehicles are undertaken
16 because of the desire of the business to securitize an
17 investment instrument. That investment instrument is almost
18 always a bond. So what you're doing is you are taking an asset
19 and you are making it commercially viable. You're monetizing
20 an asset.

21 Q And do you have an understanding of whether -- in the
22 documents that you have reviewed, in reaching case of whether
23 the securitization involving Harley Marine Financing and
24 Centerline Logistics, utilized bond instruments?

25 A Oh, absolutely they did.

1 Q And do you have an understanding of how the assets were
2 secured for those bond instruments?

3 A Yes, I do.

4 MS. YASSERI: Objection. Lacks foundation.

5 JUDGE SANDRON: Yeah. I think we've got to -- on certain
6 things, certain documents would be probably clear in reading.
7 But if -- if he's going to go into, you know, conclusions
8 beyond that, we -- we need to get the foundation for that.

9 Q BY MR. HILGENFELD: I'm going to have you turn your
10 attention to Exhibit 38.

11 JUDGE SANDRON: Is that Respondent's 38?

12 MR. HILGENFELD: Respondent's Exhibit 38.

13 JUDGE SANDRON: Is -- is that already in record?

14 MR. HILGENFELD: It's in the record.

15 May I approach, Your Honor?

16 JUDGE SANDRON: Yes.

17 Q BY MR. HILGENFELD: Going to -- did you review the base
18 indenture agreement that was provided?

19 A Yes, I did.

20 Q And is that Exhibit 38?

21 A Yes, it is.

22 Q Okay. I'm turning your note -- turning your attention to
23 page 10 of that document. Article -- Section 2.1. Article 2,
24 the notes. Are you there?

25 A Yes, sir.

1 Q In section B, it talks about a class A-1 note.

2 A Yes.

3 Q Do you have an understanding of what a clay -- class A-1
4 note is?

5 A Yes.

6 Q What is it?

7 A When a company's securitizing its assets, it commonly
8 makes a set of bonds available, usually a sequence of bonds.
9 So it starts out at an A class, and then, once that's been
10 fully subscribed or nearly so, then they introduce a B class.
11 The A class is considered to be high risk because we're talking
12 about a smallish business, one that's untested in the
13 marketplace. And in this case, A-2 bonds received a nice
14 rating, 5.6 percent. So that was a guaranteed -- guaranteed
15 rate of interest in payment for the loan of the money, on the
16 face value of the bond -- the bond. It also had a prescribed
17 life. The expected life of the bond was 4 years, but the
18 business promised that at worst, or at best, it would go on for
19 25 years. So that was an A-2 bond.

20 Then there was another bond. And the -- the other bond
21 was a B-bond. A B-bond was for a larger business, one that was
22 prove -- had proven or was proving itself to be viable in the
23 economy. And so now this is something -- this is a company you
24 probably heard of. But interestingly, it has a still higher
25 interest rate. The interest rate in this case was 7.8 percent,

1 same -- same time frame. The first -- so there were other
2 differences.

3 MS. YASSERI: Your Honor, I'm going to object. I
4 apologize, but I believe the question was, what is a class A
5 note -- 1 -- what was a class A-1 note?

6 JUDGE SANDRON: Yes, I think you --

7 MR. HILGENFELD: And I'll ask what's a class B note.

8 JUDGE SANDRON: Well, I think he's answered the B.

9 THE WITNESS: And I -- and I answered the A as well.

10 JUDGE SANDRON: Both.

11 A So they're very, very similar. They would tend to attract
12 the same kinds of investors. But -- but it -- it has to be
13 said, that security --

14 MS. YASSERI: Objection, Your Honor. There's no question
15 pending.

16 JUDGE SANDRON: Yeah. I think he -- I think -- I think we
17 need to --

18 THE WITNESS: Does it have to be said?

19 MS. YASSERI: I understand, Dr. Pearce, but --

20 JUDGE SANDRON: May the answer will have to be --

21 MS. YASSERI: -- Mr. Hilgenfeld will ask you the -- the
22 proper questions to allow you to --

23 THE WITNESS: Thank you.

24 MS. YASSERI: -- testify in that way. Thank you.

25 JUDGE SANDRON: If need be, you can tell us after you --

1 you're excused.

2 THE WITNESS: There we go.

3 Q BY MR. HILGENFELD: More generally, Dr. Pearce, what types
4 of assets are generally used to secure bonds in an SPV
5 securitization?

6 A In today's market, assets that are income generating are
7 required for a successful bond offering. The investor wants to
8 know that there is going to be ongoing streams of income, that
9 will be able to be siphoned off, to make interest payments.

10 Q Are there entities that monitor or rate secured assets?

11 A There are. This -- the provision of bonds is so
12 unbelievably critical to this process, that the success of a
13 bond offering is dependent on a number of factors; one of which
14 is the rating of an independent agency. The better the rating,
15 the more secure the investor is in buying the bond, because all
16 bonds entail some degree of risk.

17 MS. YASSERI: Objection, Your Honor. Nonresponsive.

18 MR. HILGENFELD: I -- it was responsive.

19 JUDGE SANDRON: All right. Counsel is satisfied.

20 Q BY MR. HILGENFELD: Dr. Pearce, are you familiar with the
21 Kroll Bond Rating Agency?

22 A Yes.

23 Q Who's the Kroll Bond Rating Agency?

24 A They are the agency that rated the bonds in the case of
25 the SPV.

1 Q And the SPV you're talking about, what is that?

2 A Harley Marine Financing.

3 Q All right. Is that information publicly available?

4 A I don't know. Wait a minute, I do know. I do know
5 because it's part of the bond offering. The -- the prospective
6 bond buyer knows its -- the rating on that bond. Absolutely.

7 Q Dr. Pearce, what is the importance of rating the secured
8 assets?

9 JUDGE SANDRON: I'm -- I'm not sure we're not getting into
10 unnecessary details on some of these financial matters. We --
11 we -- maybe, I'm wrong, but I don't think the General Counsel
12 is arguing that the formation of Harley Marine Financing was
13 improper. I think we're -- I mean, is -- is that correct? I
14 mean, is there any contention that their financial
15 motivation -- or Centerline's motivation with regard to Harley
16 Marine Financing was somehow improperly motivated? If -- if
17 that is a claim of the General Counsel, then Mr. Hilgenfeld can
18 go forward.

19 Do you have a position on that?

20 MS. YASSERI: Your Honor, we don't have the knowledge to
21 make such a claim, either way. But the majority of our case is
22 focused on the timing of when Harley Marine Financing was
23 created, and its operation --

24 JUDGE SANDRON: Right.

25 MS. YASSERI: -- after that time period of 2018. So sort

1 of these inquiries regarding formation, I'm not really sure how
2 far Mr. Hilgenfeld wants to go.

3 MR. HILGENFELD: Well, what I heard there is it could come
4 up later. And if it's going to come up later, we need to deal
5 with it. I would also say, Your Honor, what is part of the
6 General Counsel's case I don't think is disputed, is to how
7 Harley Marine Financing acted as related to that. The security
8 for the investors is directly at issue in this case, and that's
9 part of the initial formation issue.

10 JUDGE SANDRON: Is that part of the claim the General
11 Counsel -- I mean, we may be getting into kind of an overlap of
12 issues, but is -- does the General Counsel think that this line
13 of questioning is irrelevant or potentially could have
14 relevance?

15 MS. YASSERI: Your -- Your Honor, at this time, we want to
16 object to Mr. Hilgenfeld continuing the examination.

17 JUDGE SANDRON: All right.

18 MS. YASSERI: Based on some general inquiries --

19 JUDGE SANDRON: All right.

20 MS. YASSERI: -- regarding formation and we'll kind of
21 see --

22 JUDGE SANDRON: All right.

23 MS. YASSERI: -- where it goes.

24 JUDGE SANDRON: All right. It appears that this line of
25 inquiry may have relevance to some of the issues.

1 So go ahead, Mr. Hilgenfeld.

2 MR. HILGENFELD: Was my question answered?

3 JUDGE SANDRON: Do you want to repeat it? It might be
4 better just to --

5 MR. HILGENFELD: I have no idea what it was, Your Honor.
6 I apologize.

7 THE COURT REPORTER: What is the importance -- hold on.
8 What importance -- what is the importance of rating the secured
9 assets?

10 Q BY MR. HILGENFELD: You --

11 THE COURT REPORTER: And it's not answered.

12 Q BY MR. HILGENFELD: Have you -- did you hear -- hear that
13 question, Dr. Pearce?

14 A I did.

15 Q What would be your answer?

16 A The rating is very impactful in the purchaser's decision,
17 to be confident that their investment will be repaid with
18 interest.

19 Q And when you say "purchaser", who do you mean? Purchaser
20 of what?

21 A The bond. I apologize.

22 Q In setting up a special purpose vehicle, what protections
23 are put in place for investors?

24 A A number. The special purpose vehicle takes assets of a
25 firm and isolates them. So they 're still available for use by

1 the firm, but they do not belong to the firm. The firm sells
2 those assets to the SPV. It is a true sale and they are
3 compensated at market rate, for the assets that they sell. So
4 when the SPV offers bonds, it offers them with the tremendous
5 collateral of the assets that were used to form the SPV. So
6 that's a major source of confidence for the buyer.
7 The other thing is that you want the bonds to be well-formed
8 and in this case, the document we're now looking at, the base
9 indenture document, is as good as I've seen. It's a tremendous
10 document --

11 MS. YASSERI: So objection. Unresponsive.

12 THE WITNESS: All right.

13 JUDGE SANDRON: Yes. You need to wait for other --

14 THE WITNESS: Okay.

15 Q BY MR. HILGENFELD: Does the base indenture agreement
16 provide protections for an investor?

17 A It does. It spells out, in this document, exactly what
18 those protections are and how those protections will be
19 enforced.

20 JUDGE SANDRON: So the bonds are solely those of the SPV?

21 THE WITNESS: Yes, sir.

22 JUDGE SANDRON: The parent company, so to speak, doesn't
23 have any direct involvement in that?

24 THE WITNESS: Perfectly said. Because remember what we've
25 done here, the creation of an SPV is the creation of a new

1 business, new in every way. And with so many important
2 differences, all of which enforce the distinction between the
3 parent and the SPV.

4 Q BY MR. HILGENFELD: Do you have an understanding in this
5 case, as to who is the wholly owned owner of Harley Marine
6 Financing?

7 A Yes. It's another SPV, Harley Marine Holdings.

8 Q What import does that have?

9 A Very important. Because what we're looking for is a way
10 to isolate the special purpose vehicle. We don't want it to be
11 considered for bankruptcy, in the event that say, Centerline
12 becomes the subject of bankruptcy. It's got to be wholly
13 insulated.

14 JUDGE SANDRON: So is Harley Marine Holding an SPV of
15 Centerline or -- or no?

16 THE WITNESS: It is not. Harley Marine Holdings --

17 JUDGE SANDRON: Right.

18 THE WITNESS: -- is an SPV --

19 JUDGE SANDRON: Right.

20 THE WITNESS: -- and it is an SPV of Centerline.

21 JUDGE SANDRON: Okay.

22 THE WITNESS: Yes, sir, that's correct.

23 JUDGE SANDRON: And Harley Marine Financing is -- is an
24 SPV of Harley Marine Holding?

25 THE WITNESS: I don't think I would say it--

1 JUDGE SANDRON: No?

2 THE WITNESS: -- that way, but they are wholly owned --

3 JUDGE SANDRON: Oh.

4 THE WITNESS: -- by Harley Marine Holdings.

5 JUDGE SANDRON: I see.

6 Q BY MR. HILGENFELD: And if you turn your attention to
7 Exhibit -- Respondent's Exhibit 36, Dr. Pearce. It should be
8 just a couple up in your binder, right in front of you. I
9 believe, if you just go the other direction.

10 A Go to the front?

11 Q Yeah.

12 A Oh, I see. Yes. They're numbered. How clever of me.
13 Here we go.

14 Q Dr. Pearce, this is the amended and restated limited
15 liability company agreement of Harley Marine Financing. Do you
16 see that?

17 A Yes.

18 Q And this is one of the documents that is listed in
19 Appendix C?

20 A Yes.

21 Q Does this document identify who owns Harley Marine
22 Financing? If you look at the front page.

23 A It does. The owner of Harley Marine Financing is Harley
24 Marine Holdings. This is technical, but an LLC like this one,
25 has members. Those members are essentially the owners. And

1 you will see --

2 MS. YASSERI: I'm going to object, Your Honor. It's -- my
3 apologies. Dr. Pearce is testifying beyond the scope of the
4 question that was asked.

5 Q BY MR. HILGENFELD: Dr. Pearce, what is the significance
6 of being a member of an LLC?

7 A You are the owner of the LLC and --

8 Q Is there any other significance?

9 A I can tell you who that -- in this case, single member is.

10 Q And I believe the doc -- the document itself; I'd just
11 note for the record, identifies Harley Marine Holdings LLC as
12 the sole member of Harley Marine Financing.

13 A Yes, sir.

14 Q Dr. Pearce, in this agreement -- what -- what is the
15 importance of this agreement for Harley Marine Financing?

16 JUDGE SANDRON: Maybe -- is that too broad of a question?

17 THE WITNESS: Yes, sir.

18 JUDGE SANDRON: Yeah, why don't you --

19 Q BY MR. HILGENFELD: Do -- do you have an understanding
20 whether this document provides the operating struck --
21 instructions for Harley Marine Financing?

22 A It absolutely does.

23 Q Does this document provide what the company can do and
24 what the company cannot do?

25 A Yes, sir.



1 JUDGE SANDRON: I think you'll be careful not to lead him
2 in the answers.

3 MR. HILGENFELD: Fair enough.

4 JUDGE SANDRON: But I - I think it probably speaks for
5 itself.

6 Q BY MR. HILGENFELD: Your -- Dr. Pearce, looking at page 5
7 of this document. In "limitations on company activities", if
8 you see that page.

9 A I do.

10 Q And this uses the term, "special purpose entity". Is
11 there a difference between a special purpose entity or a
12 special purpose vehicle?

13 A No, sir, there's not.

14 Q And the limitations, from pages 5 through 7 in
15 Respondent's Exhibit 36, are those unique to a special purpose
16 vehicle?

17 A They are. They make a special purpose vehicle unique but
18 the -- the same items can appear with regard to other issues.

19 Q And as it relates to a special purpose vehicle, does a
20 special purpose vehicle give up some discretion that a typical
21 company would have in operating its operations?

22 MS. YASSERI: Objection. Leading.

23 JUDGE SANDRON: Yes. Sustained.

24 Q BY MR. HILGENFELD: What restrictions are in a special
25 purpose vehicle that are not in a regular corporate entity?

1 MS. YASSERI: Objection. Leading.

2 MR. HILGENFELD: That's not leading. He's asking (sic) a
3 specific question and then allowing to see what limitations
4 there are -- if there are any.

5 JUDGE SANDRON: Yes.

6 MS. YASSERI: I believe Counsel said, "what restrictions".
7 Maybe perhaps the question can be rephrased. Are there any --

8 JUDGE SANDRON: Yes.

9 MS. YASSERI: -- restrictions?

10 JUDGE SANDRON: I think that's a good way to rephrase it.

11 Q BY MR. HILGENFELD: Are - Dr. Pearce, are there any
12 restrictions in a special purpose vehicle that are not found in
13 a general corporate LLC, for instance?

14 JUDGE SANDRON: Do you understand the question?

15 THE WITNESS: Yes, sir. My -- what I'm doing is I'm kind
16 of going through a mental checklist of what's --

17 JUDGE SANDRON: Okay.

18 THE WITNESS: -- here and what's not --

19 JUDGE SANDRON: All right.

20 THE WITNESS: -- here, and are there any overlaps?

21 JUDGE SANDRON: All right. Take your time.

22 A Special purpose vehicles are based on documents that spell
23 out what can and cannot occur heretofore, and there's
24 considerable latitude in what those specifications would be.
25 This document provides specifications for this SPV, similar to

1 what other companies might ask for, but not necessarily so.

2 This is a -- this is a -- the special meaning of the word,
3 marriage, for me and my wife, this is a special meaning for the
4 provider and purchaser of securities for this SPV.

5 JUDGE SANDRON: I'm not sure that was a response in answer
6 to your question.

7 MR. HILGENFELD: Oh, I'll try to reframe the question,
8 Your Honor.

9 Q BY MR. HILGENFELD: In paragraph H or I-II, roman numeral
10 II, it refers to an independent director --

11 A Um-hum.

12 Q -- on page 5. Do you see that?

13 A Yes.

14 Q What is an independent director?

15 A An independent director is a provision that provides
16 purchasers of bonds confidence that the manager of the SPV will
17 be subject to a host of checks and balances. An SPV has its
18 own board, and one member of that board is labeled an
19 independent director. That's used to -- talking about other
20 people, but in this case, it's a very special person. That
21 person has no affiliation with the companies other than serving
22 on the board, and that person, the independent director, has a
23 very uniquely powerful vote.

24 On any issue coming before the board, the independent
25 director must vote in the majority for that issue to pass. So

1 extraordinarily powerful. Second guesses every proposal in the
2 event that it comes, say, from the manager, so that's a real
3 important and distinctive -- protected.

4 Q And does Harley Marine Financing have an independent
5 director in its formation?

6 A Yes, sir, it does.

7 JUDGE SANDRON: And who is that independent director?

8 THE WITNESS: I'm sorry, sir. I don't recall his name.
9 I've not met him.

10 JUDGE SANDRON: I think it's probably already in the
11 record --

12 MR. HILGENFELD: It is in the record, Your Honor.

13 JUDGE SANDRON: -- but who is that, Mr. Hilgenfeld?

14 MR. HILGENFELD: It's Albert Fioravante. It's on Schedule
15 D.

16 JUDGE SANDRON: Okay.

17 MR. HILGENFELD: The directors.

18 JUDGE SANDRON: I don't have that right before me, that
19 document.

20 MR. HILGENFELD: F-I-O-R-A-V-A-N-T-I and it was --

21 JUDGE SANDRON: Which exhibit was that?

22 MR. HILGENFELD: Respondent's Exhibit 36 --

23 JUDGE SANDRON: Yeah, I don't --

24 MR. HILGENFELD: -- is one of the -- there's also, I
25 believe, a listing of all of the board of directors at Harley

1 Marine Financing.

2 JUDGE SANDRON: Because I don't think that's in your book.

3 MR. HILGENFELD: Exhibit 36 should -- oh, sorry. Exhibit
4 36. Did I say, 35? I apologize.

5 JUDGE SANDRON: Oh, it's 35?

6 MR. HILGENFELD: It's 36, Your Honor.

7 JUDGE SANDRON: Okay, because I was looking for it, and I
8 think in the book --

9 THE WITNESS: Page 29 of 34.

10 JUDGE SANDRON: Because I think in the book --

11 THE WITNESS: Is the list of officers.

12 JUDGE SANDRON: I don't think it's in here.

13 MR. HILGENFELD: And then page 28 is the directors.

14 THE WITNESS: On the pre- -- previous page is the list of
15 directors.

16 JUDGE SANDRON: Oh, I don't have 36 in the book or Exhibit
17 36. It jumps from 33 to 37.

18 THE WITNESS: I can give you my copy.

19 JUDGE SANDRON: Well, has that been enter -- has that been
20 already put in the record?

21 MR. HILGENFELD: It has been admitted into the record,
22 Your Honor.

23 JUDGE SANDRON: Okay. It may be somewhere, but it --

24 MR. HILGENFELD: If we wouldn't mind making a copy.

25 JUDGE SANDRON: Just --

1 MR. RIMBACH: The charge is 25 cents a copy.

2 MR. HILGENFELD: Okay.

3 THE COURT REPORTER: Judge? Off the record?

4 JUDGE SANDRON: Go off the record. Let's go off the
5 record just for a minute.

6 (Off the record at 1:32 p.m.)

7 JUDGE SANDRON: I think everybody now has Respondent's
8 Exhibit 36 that was already entered into evidence from the time
9 that we were conducting the trial by Zoom.

10 Q BY MR. HILGENFELD: Doctor, is an independent director
11 unique to special purpose vehicles?

12 A I don't know.

13 Q Fair enough. Do you know if Centerline Logistics, the
14 company -- the corporate company, has an independent director?

15 A Oh, no, I don't.

16 Q And in looking at the independent director for Harley
17 Marine Financing, why does a special purpose vehicle have the
18 independent director?

19 A It's a -- another piece of the securitization package and
20 to -- purpose being to bestow confidence in the bond buyer.

21 Q You mentioned the term, "true sale."

22 A Um-hum.

23 Q What is a true sale?

24 A A true sale is a permanent sale with no residual links --
25 authority links between the buyer and seller. It's not

1 conditional. It's not reversible. It's permanent. True sale,
2 it --

3 Q I'm going to turn your attention to Exhibit 39, which I
4 believe may be in another notebook. Can I see GC for a minute?

5 JUDGE SANDRON: I hate to say it, but it's not in the
6 notebook.

7 MR. HILGENFELD: It's not in there either?

8 JUDGE SANDRON: No, unfortunately. The General Counsel
9 has it?

10 MS. YASSERI: No, we don't have it, Your Honor.

11 JUDGE SANDRON: All right. I don't think the General
12 Counsel has it readily available either.

13 THE WITNESS: Didn't -- document 38 is so enormous that it
14 fills the --

15 JUDGE SANDRON: Hold on. Wait one second. I don't know
16 if --

17 MR. HILGENFELD: Let's go this way.

18 Q BY MR. HILGENFELD: Dr. Pearce, have you reviewed the
19 management agreement as part of the securitization?

20 A Yes, sir.

21 MR. HILGENFELD: For the note of the record, I would note
22 that that's Respondent's Exhibit 39.

23 JUDGE SANDRON: Okay.

24 Q BY MR. HILGENFELD: Dr. Pearce, how does the management
25 agreement -- well, first off, what is the doctrine of

1 separateness?

2 A When the SPV was created, it was created as a separate
3 business. And the courts have said if you want to
4 understand --

5 JUDGE SANDRON: All right. Yeah, yeah, I --

6 MS. YASSERI: I'm going to object, Your Honor. Calls for
7 a legal conclusion.

8 JUDGE SANDRON: Well, I think you can just summarize it
9 without --

10 THE WITNESS: I will do that. Yes, I will.

11 A In order to demonstrate that the SPV was separate, there
12 are conditions in the documents -- the foundational
13 documents -- that says, we will do the following thing
14 separately, and they're held responsible for doing that at the
15 time of the document's creation and going forward. So all of
16 these things we could list -- I can list about 20 -- say, these
17 are not the same business. They are different businesses.
18 One's SPV, and the other one's Centerline.

19 JUDGE SANDRON: And this is largely to avoid any issues
20 leading to bankruptcy?

21 THE WITNESS: Perfect. Yeah, that's exactly right.

22 Q BY MR. HILGENFELD: Dr. Pearce, and I apologize. I
23 probably should have asked you this beforehand. I'm going to
24 ask you all your decisions or opinions that you provide today,
25 you provide with a reasonable degree of professional certainty.

1 Can you do that?

2 A Yes, I can.

3 Q Have you done that to this point?

4 A Yes, I have.

5 Q Have you formed an opinion as to whether Harley Marine
6 Financing has maintained an appropriate degree of separateness
7 under the doctrine of separateness between it and Centerline
8 Logistics and the subsidiaries?

9 JUDGE SANDRON: All right. I think we --

10 MS. YASSERI: I'm going to object. It calls for a legal
11 conclusion.

12 JUDGE SANDRON: Well, it calls for a legal conclusion.
13 Also, I think, you know, we have to determine the basis on
14 which he has relied.

15 MR. HILGENFELD: Your Honor, I believe I'm allowed to
16 allow him to say yes to what he's done and then provide the
17 basis to it.

18 JUDGE SANDRON: All right.

19 MS. YASSERI: I'm not aware of any authority that allows
20 him to do it in that order, Your Honor.

21 MR. HILGENFELD: It's very standard, Your Honor. It's --
22 every court I've ever been in, we've been allowed to say, this
23 is what I have formed an opinion, and then you provide the
24 basis. I'm not asking what his opinion is. I'm asking has
25 he --

1 JUDGE SANDRON: Oh, all right.

2 MR. HILGENFELD: -- formed an opinion.

3 JUDGE SANDRON: Go ahead.

4 Q BY MR. HILGENFELD: Dr. Pearce, have you formed an opinion
5 as to whether Harley Marine Financing has maintained an
6 appropriate degree of separateness under the doctrine of
7 separateness between it and Centerline's Logistics and the
8 subsidiaries?

9 A Yes.

10 Q Okay. Doctor, you've already talked about what
11 separateness is. Dr. Pearce, in examining the management
12 agreement, what is a manager in a special purpose vehicle
13 securitization?

14 A SPVs need to be serviced. SPVs, including this one, have
15 no employees. So who does the stuff? The stuff is done by a
16 manager. That manager -- the provision for that manager was in
17 the formulating documents of the SPV. And so in this case, the
18 manager is Centerline. And Centerline has been told through
19 documentation what kinds of functions they are to perform.

20 Q In reviewing the management agreement, does it define the
21 functions that Centerline may perform with Harley Marine
22 Financing?

23 A In great -- yes.

24 Q And in looking at -- and I will not be asking a lot of
25 questions on this, but in looking at Respondent's Exhibit 39 on

1 page 6 --

2 JUDGE SANDRON: Do you have that? General Counsel have
3 that?

4 MS. YASSERI: No, that's the one we don't have.

5 MR. HILGENFELD: Oh, I thought everyone --

6 JUDGE SANDRON: I don't think we have that one. We need
7 to make a copy of this one.

8 MR. RIMBACH: How many copies of this one?

9 MR. HILGENFELD: Do you have one in your --

10 THE WITNESS: No --

11 MR. HILGENFELD: -- binder?

12 THE WITNESS: -- I don't.

13 MR. HILGENFELD: Okay.

14 THE WITNESS: And I would like one.

15 MR. HILGENFELD: Can we go off the record, Your Honor?

16 JUDGE SANDRON: Yes.

17 (Off the record at 1:46 p.m.)

18 JUDGE SANDRON: I think everybody that has copies of the
19 documents --

20 THE WITNESS: 50.

21 JUDGE SANDRON: -- that have already been put in the
22 record where they're now readily available. I think we had
23 left off at General Coun -- Respondent's Exhibit 39. I think
24 you had that --

25 THE WITNESS: Yes, sir, I do.



1 JUDGE SANDRON: -- right there.

2 THE WITNESS: Right here.

3 MR. HILGENFELD: Okay. Are we ready?

4 THE WITNESS: Yes.

5 JUDGE SANDRON: I think everybody's set.

6 MR. HILGENFELD: Okay. Thank you, everyone, for your --

7 JUDGE SANDRON: Are we on the record?

8 MR. HILGENFELD: -- help and patience.

9 JUDGE SANDRON: I think we're on the record, aren't we?

10 THE COURT REPORTER: Yes.

11 JUDGE SANDRON: Yeah, okay, very good, just to make sure.

12 Q BY MR. HILGENFELD: Dr. Pearce, I'm going to turn your
13 attention to the management agreement, which is Respondent's
14 Exhibit 39. Do you see that?

15 A Yes.

16 Q And I guess we will start with -- as part of the issue of
17 separateness, on page 1, it has identified an indenture
18 trustee, and that is US Bank National Association. What is an
19 indenture trustee?

20 A An indenture trust --

21 Q Trustee.

22 A -- trustee. So probably the centerpiece of securitization
23 is being able to offer a bond. It can be done in a fairly
24 ship -- slipshod manner, but in this case and in most
25 professional situations, it's done by an expert. The expert in

1 this case is US National -- US Bank National Association. This
2 is -- this is a textbook example of how that process should
3 work. It talks about all of the different concerns that the
4 bond buyer would want to have answers to, and it takes an -- in
5 my -- it takes an unusual step to link the bonds to
6 separateness. It's really making the argument; this is not an
7 investment in Centerline. This is an invest --

8 MS. YASSERI: Your Honor, I'm going to object.

9 JUDGE SANDRON: All right.

10 MS. YASSERI: I believe the question was, what is an
11 indenture trustee?

12 JUDGE SANDRON: Right.

13 MS. YASSERI: I'm going to object on responsiveness --
14 unresponsive.

15 JUDGE SANDRON: What isn't -- what is the role of the
16 indenture trustee?

17 THE WITNESS: Indenture trustee certifies that the
18 conditions of the indenture are being adhered to.

19 JUDGE SANDRON: Does the indenture trustee have any role
20 after the creation?

21 THE WITNESS: Absolutely, because the separateness issue
22 is an ongoing concern.

23 JUDGE SANDRON: Now, it may be in the document, but does
24 the indenture trustee periodically review any records?

25 THE WITNESS: They do, and they're involved in a number of

1 meetings and issues that come up with the SPV.

2 JUDGE SANDRON: I see and --

3 THE WITNESS: Whenever the issue of investment comes up,
4 they're involved.

5 JUDGE SANDRON: And that would be in the document --

6 THE WITNESS: Yes, sir.

7 JUDGE SANDRON: -- setting out those --

8 THE WITNESS: It does.

9 JUDGE SANDRON: -- duties.

10 THE WITNESS: It is.

11 JUDGE SANDRON: And one thing, it says, execution version,
12 at the top. Do you know what that means?

13 THE WITNESS: I don't.

14 JUDGE SANDRON: You can go ahead.

15 Q BY MR. HILGENFELD: Dr. Pearce, does an indenture trustee
16 play a role in separateness?

17 A Absolutely.

18 Q How so?

19 A Well, separateness is critically important to the
20 indenture process. The bank is certifying that this is an
21 investment in involving the assets of Harley Marine Financing.
22 It has nothing to do with Centerline. And so in order to keep
23 faith with its own documents, it continues to monitor the
24 behavior of Harvey (sic) Marine Financing.

25 Q And page 1 identifies Harley Marine Services as the

1 manager. Harley Marine Services is Centerline Logistics.

2 There's a name change, so I'm going to ask about Centerline,
3 but I'm referring to Harley Marine Services --

4 A That's fine.

5 Q -- as well. Centerline as a manager, is there a problem
6 with separateness that the parent company is involved as a
7 manager of Huffs assets?

8 JUDGE SANDRON: Are you talking about a -- all right. Go
9 ahead.

10 A There is not.

11 Q BY MR. HILGENFELD: Why not?

12 A There is no tension between two companies doing business
13 with one another, so there's no tension between Harley Marine's
14 Financing and Centerline. They, in fact, have a lot of common
15 concerns, and so having access to the same expert pool makes
16 sense. And that's what's happened in the case of the manager.

17 The manager, meaning that whole organization called Harley
18 Marine Services or Centerline, is repository of intellectual
19 property. They know these companies. They know this
20 environment, and so the two different companies, while totally
21 distinct, have a mutual interest in the information that they
22 possess.

23 Q I'm going to ask you to assume that Matthew Godden is the
24 president and CEO of Centerline, and he's the president and CEO
25 of Harley Marine Financing.

1 A Um-hum.

2 Q How does that affect separateness?

3 A It -- I want to say that it doesn't affect separateness
4 because Matt Godden, as an employee of Centerline or Harvey
5 (sic) Marine Services, has a duty to two distinct organizations
6 to achieve their purposes. Those purposes are far from
7 identical, and so he has two very different purposes to pursue,
8 depending on which organization he's acting for. That -- this
9 is all good stuff.

10 JUDGE SANDRON: All right.

11 MS. YASSERI: Your Honor, I object.

12 JUDGE SANDRON: Yeah, plea -- please.

13 THE WITNESS: I object too. I know. I --

14 JUDGE SANDRON: All right. Please don't editorialize.

15 Q BY MR. HILGENFELD: Dr. Pearce, are you familiar with
16 whether there is a managing standard in the management
17 agreement?

18 A There is. It's referred to -- yes, there is.

19 Q And if I turn your tage (sic) -- to page 3. Are you
20 there, Dr. Pearce?

21 A I am. I'm sorry.

22 Q What is the import of a managing standard on the doctrine
23 of separateness?

24 A In judging the performance of the manager, one frequent
25 question is are they behaving according to the standard? Is

1 this reasonable behavior? Are these reasonable options? And
2 when the answer is yes, then the manager is going to get a good
3 rating.

4 Q Does -- do the officers and directors for Harley Marine
5 Finance have a fiduciary responsibility to the investors?

6 A Harley Marine Financing?

7 Q Correct.

8 A They do.

9 Q And what is that fiduciary responsibility?

10 A It's --

11 JUDGE SANDRON: All right. Well, I don't think we need to
12 get into general principles of fiduciary duties.

13 MR. HILGENFELD: Okay. Very well, Your Honor.

14 Q BY MR. HILGENFELD: Dr. Pearce, what is a backup manager?

15 A A backup manager is another of the requirements that help
16 to guarantee separateness as well as provide protection for the
17 investors in the bonds. The backup manager's job in Maine is
18 to judge the manager's performance, to make sure that this
19 tremendous, long list of expectations on the manager are all
20 being met by the manager. There -- there is a mutually
21 beneficial relationship, in that, when you can -- when the
22 backup manager can remind the manager that something needs to
23 be done, both parties are -- are doing their jobs and -- and
24 better for it.

25 JUDGE SANDRON: Can you point out -- is there a -- is

1 there a provision for backup manager here? I'm just looking
2 and I see there's the submanager. Is there a provision
3 specifically regarding the backup manager?

4 MR. HILGENFELD: Your Honor, it would be in the transition
5 agreement, which is part of the securitization documents.

6 JUDGE SANDRON: I see. So it wouldn't be in this
7 document?

8 MR. HILGENFELD: It -- it would not be, Your Honor.

9 JUDGE SANDRON: Okay. Thank you.

10 Q BY MR. HILGENFELD: And Dr. Pearce, you familiar with the
11 term transition manager?

12 A Yes.

13 Q And what's the transition manager?

14 A Transition manager was pretty much the same as the backup
15 manager, but for a different time period. The time immediately
16 after the signing of the documents was the transitional -- was
17 the transition manager. Thereafter, the transition manager
18 became the backup manager.

19 JUDGE SANDRON: And would that be the same individual or
20 entity?

21 THE WITNESS: Yes, sir. Same entity.

22 Q BY MR. HILGENFELD: And who's that entity?

23 A FTI.

24 Q FTI Consulting?

25 A Yes, sir.

1 MR. HILGENFELD: And for the record, I would just note
2 that Respondent's Exhibit 72 is the transition management and
3 consulting agreement.

4 JUDGE SANDRON: Okay. Thank you.

5 Q BY MR. HILGENFELD: Dr. Pearce, you talked about specific
6 acts that the manager is required to engage in that are in the
7 management agreement. I want to turn your attention to page 6.

8 A Yes, sir.

9 Q What does article 2 signify?

10 A Well, I -- I think it's --

11 Q I guess it's --

12 A -- self-explanatory, I think.

13 Q The specific services that you're referring to, Dr.
14 Pearce, are they listed in article 2?

15 A In subsection C, I believe.

16 Q Thank you.

17 MS. YASSERI: It might help me, Mr. Hilgenfeld, can you
18 clarify if you're referring to the internally paginated
19 reference or to the exhibit? You said page 6.

20 MR. HILGENFELD: I'm sorry, I'm referring to the exhibit.
21 So the record's clear, that would be page 9 of 45 --

22 JUDGE SANDRON: Right.

23 MR. HILGENFELD: -- article 2.

24 JUDGE SANDRON: Yes.

25 MS. YASSERI: Thank you.

1 JUDGE SANDRON: I think it's best to refer to the exhibit
2 page.

3 MR. HILGENFELD: Thank you, Ms. Yasseri.

4 Q BY MR. HILGENFELD: Dr. Pearce, I'm going to ask you to
5 assume that Centerline Logistics employees that provide
6 services to Harley Marine Financing are not paid by Harley
7 Marine Financing directly. Can you accept that assumption?

8 MS. YASSERI: Objection. Calls for speculation.

9 MR. HILGENFELD: I'm asking him to assume. Experts can
10 assume it's part of the whole process of having expert
11 testimony. Whether my assumption is correct or not is an issue
12 of argument.

13 JUDGE SANDRON: All right. Is that a fact in the record?

14 MR. HILGENFELD: It is. Ms. Beckman testified to it.

15 MS. YASSERI: I believe it's in dispute.

16 JUDGE SANDRON: That is --

17 MR. HILGENFELD: No. It's not in dispute that Harley
18 Marine Financing does not pay the Centerline Logistics
19 employees directly for the services they provide.

20 JUDGE SANDRON: Is there a question about that?

21 MS. YASSERI: Can you please state that again, Mr.
22 Hilgenfeld?

23 MR. HILGENFELD: It -- it is not in dispute that Harley
24 Marine Financing does not directly pay Centerline Logistics
25 employees performing work under the management agreement.

1 MS. YASSERI: That's true.

2 JUDGE SANDRON: All right.

3 MS. YASSERI: However, Dr. Pearce doesn't have any direct
4 knowledge of that.

5 MR. HILGENFELD: He doesn't need direct knowledge. He's
6 an expert. He doesn't have direct knowledge. He's under 702.
7 He's permitted to provide that testimony.

8 JUDGE SANDRON: Go ahead.

9 Q BY MR. HILGENFELD: Dr. Pearce, I'll -- I'm going to ask
10 you to assume that Centerline employees provide services under
11 the management agreement for Harley Marine Financing, okay?

12 A Yes.

13 Q I'm going to ask you to assume that Harley Marine
14 Financing does not pay those Centerline Logistics employees who
15 perform those services, okay?

16 A Yes.

17 Q Does that impact separateness?

18 JUDGE SANDRON: Do you understand the question?

19 THE WITNESS: Yes, sir. I apologize.

20 JUDGE SANDRON: That's all right.

21 A I -- I -- there is -- there is compensation to those
22 employees. Does that compensation come in part from the
23 contractual relationship between Harvard -- Harley Marine
24 Financing and Centerline? I have to believe that it does. The
25 fact that no dollar amount is attached to actions performed by

1 Centerline employees on behalf of Harley Marine Financing, that
2 doesn't bother me at all. So I need a question that fits my
3 answer.

4 Q Is Har -- does the doctrine of separateness require Harley
5 Marine Financing to pay the Centerline Logistics employees?

6 JUDGE SANDRON: I think you're --

7 A It does not.

8 MS. YASSERI: I'm going to object, Your Honor.

9 JUDGE SANDRON: All right. I think you're leading him too
10 much so.

11 Q BY MR. HILGENFELD: Under the doctrine of separateness --

12 A Yes.

13 Q -- is there a requirement for a special purpose vehicle to
14 pay a manager directly to those individual employees for any
15 services provided?

16 A Absolutely --

17 MS. YASSERI: Objection. Calls for a legal conclusion.

18 JUDGE SANDRON: Well, I -- I think what we're dealing with
19 perhaps is in the nature of commercial or business term at this
20 point. Obviously, just to point out, the standards for
21 separateness in the business world may not be equivalent to the
22 standard for single employer under the National Labor Relations
23 Act but --

24 MR. HILGENFELD: And we are not asking for a legal
25 conclusion.

1 JUDGE SANDRON: But -- I'll allow -- allow the question.

2 Q BY MR. HILGENFELD: Would you like me to repeat, Dr.
3 Pearce?

4 A Yes, I would.

5 JUDGE SANDRON: You recognize he's not held out as a legal
6 expert, so this would be more in the nature of his expert
7 opinion based on his expertise, which is not in the legal world
8 per se.

9 Q BY MR. HILGENFELD: In your opinion, does the doctrine of
10 separateness require a special purpose vehicle to pay
11 individual employees of the parent company directly for
12 services provided under a management agreement?

13 JUDGE SANDRON: Of course, I have to say, I think -- now,
14 I think it's too leading.

15 MR. HILGENFELD: Can you repeat the -- my original
16 question?

17 JUDGE SANDRON: Why don't you just make it a little more
18 open-ended and ask -- ask him if their -- if their -- if the
19 payment of compensation affects the separateness doctrine and
20 then maybe he can answer.

21 MR. HILGENFELD: Very well, Your Honor.

22 Q BY MR. HILGENFELD: Does -- does the payment of a special
23 purpose vehicle to parent employees affect the separateness
24 doctrine?

25 MS. YASSERI: Objection, Your Honor. I -- I have to

1 object to this line of questioning with respect to
2 separateness. It's our position that that's a -- that's a
3 legal doctrine. It's in Dr. Pearce's report.

4 JUDGE SANDRON: Well -- well, again, I think we're --
5 we're dealing with the doctrine of separateness as it relates
6 to the business world and commercial transactions. So his
7 opinion on some of these matters is in that realm, and it's
8 not -- and I won't take it as a legal conclusion with respect
9 to the issues under the National Labor Relations Act.

10 MS. YASSERI: But Your Honor, it's not a business
11 determination. It's whether the two entities are legally
12 separate. And I believe that's where Counsel's questions
13 are --

14 JUDGE SANDRON: That what?

15 MS. YASSERI: -- going towards. Are trying to determine
16 whether the two entities are legally separate under the
17 doctrine of separateness. There's a specific quote from Dr.
18 Pearce's -- there's a specific reference in Dr. Pearce's
19 report, Respondent's Exhibit 38.

20 JUDGE SANDRON: About what?

21 MS. YASSERI: Separateness covenants are intended to
22 ensure that the borrowers, managers, members, directors or
23 other controlling persons operate as an entity legally separate
24 from any other entity.

25 JUDGE SANDRON: So your point is that?

1 MS. YASSERI: This is -- this is -- this -- his analysis
2 leads to a legal conclusion, Your Honor.

3 JUDGE SANDRON: Well, some of the conclusions we have to
4 review. I think that -- let's see which doctrine is that.
5 When it comes to certain --

6 MS. YASSERI: It's page 12 on Respondent's Exhibit 308.

7 JUDGE SANDRON: All right. When we deal with certain
8 conclusions, then we have to examine the basis for those and
9 how he arrived at those conclusions, whether it was based on
10 what was provided to him by Centerline or HMF individuals or
11 whether it was based on -- some of them might have been
12 based -- honestly, looking at page 15, some of them might have
13 been based on the documents and some may well have been based
14 on what was provided to him by Centerline or HMF parties or --
15 or the principles, obviously, the ones that were based on what
16 was provided to him. I'm -- I'm not going to -- you know,
17 that's basically hearsay as far as a witness.

18 MR. HILGENFELD: I would just note, Your Honor, that
19 experts are allowed to rely on hearsay in providing testimony.

20 JUDGE SANDRON: Right. But if it is based on what was
21 provided to him. I'm not going to say that it's necessarily,
22 you know, he relied on it, but I'm not necessarily going to
23 consider that as further evidence in support of the
24 Respondent's positions.

25 MR. HILGENFELD: I will ask the question again, Your

1 Honor, if I may?

2 JUDGE SANDRON: Yes. Although, I -- I think up to a
3 point, I think we have the report -- his report already. And
4 I'm not sure we need to go into every aspect of -- of his
5 report.

6 MR. HILGENFELD: Agreed, Your Honor. This was not in his
7 report.

8 JUDGE SANDRON: And your question is, again?

9 MR. HILGENFELD: Does the payment or nonpayment by an SPV
10 to a parent company's employee under a management agreement
11 affect your analysis?

12 MS. YASSERI: Your Honor, I'm just going to lodge a -- a
13 standing objection --

14 JUDGE SANDRON: All right.

15 MS. YASSERI: -- based on legal conclusion.

16 JUDGE SANDRON: Yes.

17 MS. YASSERI: Thank you.

18 JUDGE SANDRON: But as I mentioned, I think we're dealing
19 with perhaps an overlap of, you know, his expertise in his
20 subject area and maybe the law, but I'll -- I'll allow it at
21 this point. I'll note your continuing objection.

22 MS. YASSERI: Thank you.

23 JUDGE SANDRON: And if I feel we're getting too far
24 afield, I'll sustain it.

25 MR. HILGENFELD: Could you please reread my question?

1 THE COURT REPORTER: Does the payment or nonpayment by an
2 SPV to a parent company's employee -- employment under a
3 management agreement affect the separate -- separateness?

4 A The answer is that it does not. We're talking -- when --
5 when we talk about separateness, we're talking about has there
6 been an event that caused the two businesses to be merged?
7 This does not do that. Under the management agreement,
8 Centerline is assuming a contractual obligation to serve the
9 SPV.

10 Q BY MR. HILGENFELD: And I believe the court reporter may
11 have read back at the company employer, but if that was the
12 company employee, is your answer the same?

13 A I'm saying no.

14 Q No. I'm saying it, I believe, does the payment or
15 nonpayment that an SPV by the parent company's employee under a
16 management agreement affect the separateness doctrine?

17 A No.

18 Q Thank you.

19 A We -- we've got --

20 JUDGE SANDRON: All right.

21 MR. HILGENFELD: I just -- just making sure the record was
22 clear on that question, Your Honor.

23 JUDGE SANDRON: Yes. That's fine.

24 Q BY MR. HILGENFELD: Dr. Pearce, is it commercially
25 important under the separateness document -- under the

1 separateness doctrine to -- for an SPV to invoice its own
2 customers?

3 MS. YASSERI: Objection. Leading.

4 JUDGE SANDRON: Yeah. I think you're getting -- getting
5 too leading.

6 MR. HILGENFELD: Okay.

7 Q BY MR. HILGENFELD: What -- what is the -- is there any
8 importance of an SPV? Do SPVs have customers?

9 A Customers, they do not.

10 Q Okay. If an SPV has a contract, can an SPV own a
11 contract?

12 A Yes, they can.

13 Q If they own a contract and they invoice that customer of
14 the contract, should the SPV invoice that customer?

15 MS. YASSERI: Objection. Leading.

16 JUDGE SANDRON: How does -- in an SPV situation who
17 invoices customers?

18 THE WITNESS: The SPV. Are you going to ask me why?

19 JUDGE SANDRON: No. That's all right. If -- if one of
20 the attorneys wants you to go through that, they will ask you.

21 Q BY MR. HILGENFELD: Dr. Pearce, I'm going to turn your
22 attention to Respondent's Exhibit 50. Should be one of the big
23 books that you have, I believe everybody has that.

24 A 50, you say?

25 Q 5-0.

1 A Yes. I've got it.

2 JUDGE SANDRON: I would just point out, Ms. Yasseri, that,
3 you know, even though you objected to these lines of questions,
4 if you decide you wish to cross-examine on these matters, then
5 they won't be considered a waiver of your objection.

6 MS. YASSERI: Yes.

7 JUDGE SANDRON: Go ahead.

8 MR. HILGENFELD: Okay.

9 Q BY MR. HILGENFELD: Respondent's Exhibit 50, do you see a
10 bareboat charter for the vessel Polis Ferry (phonetic
11 throughout)?

12 A Yes.

13 Q And the document shows that Harley Marine Financing is the
14 charter of this agreement?

15 A Yes.

16 Q Can you please describe why an SPV would enter into an
17 agreement with a different company?

18 A Enter into an agreement with a?

19 Q With a separate -- in this case, Vessel Holdings 7, why
20 would Harley Marine Financing enter into a separate agreement
21 with a Vessel Holdings 7?

22 A Harley Marine Financing holds all contracts that involve
23 the assets that it holds. And so it would be officially the
24 charterer in this case.

25 Q Is there any importance of the special purpose vehicle

1 conducting business in its own name?

2 A I'm sorry. I -- I don't have knowledge to answer that
3 question.

4 Q Okay. If Harley Marine Financing owns equipment, is there
5 any importance in Harley Marine Financing conducting that
6 business in its own name?

7 A Harley Marine Financing secures contracts through
8 negotiations between a shipper and one of Harley Marine -- and
9 one of Centerline's subsidiaries. So that's why -- that's why
10 the SPV is the holder of the contract and would be named on the
11 contract. Yes.

12 Q But is there any import to separateness as to companies
13 having their own tax identification numbers?

14 A Absolutely. It's one of the primary indicators of
15 separateness.

16 Q I will ask you to assume that Centerline Logistics files a
17 consolidated tax return that includes Harley Marine Financing;
18 does that impact what you just said?

19 A If that consolidation takes place as a -- as an element of
20 a tax return, then it's absolutely mandated. It -- it is a
21 requirement that the financial reporting of the two distinct
22 operations are combined because of the ownership that occurs
23 within this company. So what you -- why you need to have
24 separate ID numbers is so that an evaluator of the tax return
25 could figure out who contributed what.

1 JUDGE SANDRON: So -- so does that go all the way down to
2 an -- to an SPV of an SPV? In other words, Centerline is the
3 parent of every company.

4 THE WITNESS: Any entity that pays taxes needs to have its
5 own tax ID.

6 JUDGE SANDRON: But they would file a joint return -- not
7 joint. They would file a consolidated --

8 THE WITNESS: Yes.

9 JUDGE SANDRON: -- return covering all the subsidiaries?

10 THE WITNESS: All of the subsidiaries, yes.

11 Q BY MR. HILGENFELD: What is the importance of having
12 separate bank accounts within a -- within a SPV in a parent
13 company?

14 A One of the tenants of separateness agreements is that
15 there will be no mingling -- comingling of resources --
16 financial resources, for example. And so to make sure to have
17 evidence that that there is no comingling, they keep separate
18 books, have separate bank accounts.

19 Q What is the import of an SPV being able to identify its
20 own assets?

21 A With all due respect, that -- that's -- my answer is so
22 obvious that I -- I am not sure that I understand your
23 question. Every company knows its own assets.

24 Q Is it important for the SPV to keep those assets
25 segregated?

1 A Oh, absolutely. Absolutely. The -- that would -- any
2 comingling of assets, any co -- any shared assets would be a
3 real threat to the separateness agreement. These are two
4 separate companies.

5 Q I want to turn your attention to Respondent's Exhibit 41.

6 A Yes.

7 Q What is the import of entering into separate agreements
8 between Harley Marine Financing and different operating
9 companies or subsidiaries of Centerline Logistics?

10 A Harley Marine Financing is not a franchise organization.
11 Its members are similar and dissimilar. They have different
12 Union contracts. They have different assets. They serve
13 different customers. And so getting their agreement to employ
14 the same manager, it -- it's just real important because it
15 says they trust that manager to appreciate the distinctions
16 among them -- among those subsidiaries.

17 Q Dr. Pearce, you had said that there were approximately 20
18 factors under the separateness doctrine --

19 A Um-hum.

20 Q -- did I hear that correct?

21 A Yes.

22 Q If -- if you could, what are those factors?

23 JUDGE SANDRON: I don't think we need to --

24 MR. HILGENFELD: Okay. That's fine.

25 JUDGE SANDRON: -- go into that.

1 Q BY MR. HILGENFELD: You'd also said you'd form an opinion
2 as to whether Harley Marine Financing had maintained an
3 appropriate degree of separateness under the doctrine of
4 separateness between it and Centerline Logistics and the
5 subsidiaries. What is that opinion?

6 MS. YASSERI: Objection. Calls for legal conclusion.

7 MR. HILGENFELD: It's not being offered for a legal
8 conclusion, Your Honor.

9 JUDGE SANDRON: Well, I think he's already answered that.

10 MR. HILGENFELD: He answered yes. But I'm going to ask
11 him to explain it. He's not been allowed to provide what his
12 opinion is.

13 MS. YASSERI: It's -- it's going to call for a legal
14 analysis, Your Honor. Counsel's seeking an explanation.

15 MR. HILGENFELD: Well, an explanation of an expert opinion
16 is exactly why you have an expert. They're allowed to provide
17 an opinion. He's allowed to provide the doctrine of
18 separateness as it relates to commercial entities. He's
19 allowed to go through that.

20 This does not -- I will also say, a legal opinion actually
21 can be an expert testimony as well, but we're not offering it
22 for a legal opinion. Ultimately, Your Honor, that will be your
23 decision to decide whatever is legally allowed or not. Dr.
24 Pearce must be given an opportunity to provide his opinion as
25 to this issue.

1 JUDGE SANDRON: Well, as I think I said it earlier, his
2 conclusions regarding the separateness doctrine in the
3 commercial -- in the commercial world that largely relates to
4 bankruptcy protection issues is not necessarily equivalent to
5 what the Board's inquiries are regarding senior employee
6 status. And I -- I know the General Counsel has already
7 objected to the witness testifying in the first place. And --
8 and -- but agree that he could offer testimony.

9 So I think I'll allow him to make a -- a special
10 conclusion. But I think his bases of his conclusions are
11 apparently stated on page 16 of Joint Exhibit 308. I don't
12 think he needs to, you know, regurgitate them. But you can ask
13 his overall conclusion.

14 Q BY MR. HILGENFELD: Dr. Pearce, could you please provide
15 your overall conclusions as to whether Harley Marine Financing
16 maintained an appropriate degree of separateness between it and
17 Centerline Logistics and the subsidiaries?

18 JUDGE SANDRON: You don't have to repeat everything you've
19 said, but if -- if you just want to give us your overall
20 conclusions.

21 THE WITNESS: Yes. Thank you.

22 A Yes, they have. That's a judgment call because there is
23 no absolute list. Their -- the list that has been reported in
24 trial results -- trial findings shows a --

25 MS. YASSERI: Objection, Your Honor.

1 JUDGE SANDRON: All right.

2 MS. YASSERI: What -- that's -- stri -- I'm going to move
3 to strike.

4 JUDGE SANDRON: All right. I think you -- I think you
5 just want to give -- you overall con -- at this point,
6 conclusion. That's what you were asked.

7 THE WITNESS: Yes, they have.

8 JUDGE SANDRON: Okay.

9 Q BY MR. HILGENFELD: How so?

10 JUDGE SANDRON: Well --

11 MR. HILGENFELD: Or we'll just rely on Respondent's 308.
12 Thank you.

13 JUDGE SANDRON: Yes.

14 Q BY MR. HILGENFELD: Are there any factors that are more
15 important than others in two separateness?

16 MS. YASSERI: Objection, Your Honor. Again, we
17 strenuously object to this line of questioning. It calls for a
18 legal conclusion.

19 MR. HILGENFELD: It does not. And the objection has been
20 ruled on. I ask that they accept the Court's ruling and we
21 allow it. And then Your Honor can decide whatever --

22 JUDGE SANDRON: All right. He -- he can --

23 MR. HILGENFELD: -- weight it wants to give.

24 JUDGE SANDRON: He can answer that question. But I think
25 after that, we -- we have his compare -- you know, apparently

1 what were the bases of his conclusions on page 16 of
2 Respondent's Exhibit 308. But you can ask him that question.

3 Q BY MR. HILGENFELD: Are any factors more important than
4 others in the separateness issue?

5 A No.

6 Q Thank you. Dr. Pearce, have you formed an opinion as to
7 whether a special purpose vehicle can operate without
8 employees?

9 A Yes.

10 Q Have you formed an opinion as to whether Harley Marine
11 Financing can operate without employees?

12 A Yes.

13 Q Briefly, what is that opinion?

14 A They can and do operate without employees.

15 Q What is the importance of the management agreement and
16 Harley Marine Financing's operation agreement as it relates to
17 that answer?

18 A Those two agreements provide the individuals who will
19 service the needs of Harley Marine Financing according to the
20 guidelines that they both have, that you have in the documents.

21 Q Dr. Pearce, have you formed an opinion as to the necessity
22 of Harley Marine Financing to protect its assets apart separate
23 from Centerline Logistics and any operating subsidiaries such
24 as Westoil Marine Services?

25 JUDGE SANDRON: All right. Well -- well, I think you're

1 getting --

2 MS. YASSERI: Objection.

3 JUDGE SANDRON: -- getting into too many maybe leading
4 questions indirectly.

5 MR. HILGENFELD: I asked if he had formed an opinion, Your
6 Honor. This is one of the topics I outlined specifically at
7 the beginning of the testimony.

8 JUDGE SANDRON: Well, I -- again, I think his report
9 basically tells us what his conclusions were and -- and what he
10 based -- and what he based on. So I don't know if we need to
11 have him go on beyond that.

12 MR. HILGENFELD: I'm just going to ask if he's formed it
13 and then very briefly what that opinion is. And I'm going to
14 move to the next one and then I'm going to be done, Your Honor.

15 JUDGE SANDRON: All right.

16 Q BY MR. HILGENFELD: Dr. Pearce, have you formed an
17 opinion?

18 JUDGE SANDRON: The only thing I -- the only thing I would
19 say, is that based on what's in his report -- what you're
20 asking him basically answers those questions about what his
21 opinion is.

22 MR. HILGENFELD: I understand, Your Honor. I feel like it
23 probably needs to get into the record.

24 JUDGE SANDRON: What's that?

25 MR. HILGENFELD: Since -- well, I guess, I feel like Dr.

1 Pearce's statement needs to get into the record.

2 JUDGE SANDRON: His --

3 MS. YASSERI: The report's in the record, Your Honor. Dr.
4 Pearce's report is in the record.

5 JUDGE SANDRON: Right.

6 MR. HILGENFELD: Well --

7 JUDGE SANDRON: What -- what was the last thing you said,
8 was opinion?

9 MR. HILGENFELD: I -- I feel like it is important for Dr.
10 Pearce to be able to fully provide his testimony.

11 JUDGE SANDRON: On that last question, you mean?

12 MR. HILGENFELD: On those last two questions. I have two
13 very distinct questions that we offered to you at the very
14 beginning of this and General Counsel that we were going to
15 have him proffer an opinion on.

16 JUDGE SANDRON: Well, all right. If -- if those are your
17 last two questions on that --

18 MR. HILGENFELD: Last two topics, four questions total.
19 One is, have you formed an opinion, and the other is explain
20 the opinion. Have formed an opinion, have you explained it?

21 JUDGE SANDRON: All right. Go ahead.

22 MR. HILGENFELD: That is it, Your Honor.

23 Q BY MR. HILGENFELD: Dr. Pearce --

24 MS. YASSERI: Your Honor, General Counsel objects to the
25 extent that these questions call for any legal opinion.

1 JUDGE SANDRON: All right. Well, I think you -- I think
2 you've stated that already. But again, I think maybe the --
3 there can be the dichotomy drawn between the doctor in his use
4 of commercial transactions and what might be considered legal
5 conclusions on the subject. That would be basically in court
6 or other proceedings of a legal nature. Because I mean, I
7 don't think there's any question that in terms of commercial
8 law, he knows not to -- let's not use the law. In terms of
9 commercial transactions and bankruptcy protection, he is an
10 expert in his field. So go ahead.

11 Q BY MR. HILGENFELD: Dr. Pearce, have you formed an opinion
12 on the necessity of Harley Marine Financing to protect its
13 assets apart and separate from Centerline Logistics and any
14 operational subsidiaries such as Westoil Marine Services?

15 A Yes.

16 Q What is that opinion?

17 A That it's absolutely essential that they continue to
18 practice separateness.

19 Q Dr. Pearce, have you formed an opinion on the
20 appropriateness of Harley Marine Financing conducting a bid
21 process -- a blind bid process to evaluate operating companies?

22 A Yes.

23 Q What is that opinion?

24 A That it helps fulfill the requirement of the manager to
25 act in accordance with the documentation for the SPV.

1 Specifically, that the manager is treating the subsidiaries as
2 independent subsidiaries and trying to make decisions about
3 those subsidiaries in a reasonably objective and verifiable
4 way.

5 Q Thank you. Thank you, Dr. Pearce.

6 MR. HILGENFELD: At this time, we'd move to offer
7 Respondent's Exhibit 308.

8 JUDGE SANDRON: Any voir dire on the document?

9 MS. YASSERI: Yes, Your Honor.

10 **VOIR DIRE EXAMINATION**

11 Q BY MS. YASSERI: Dr. Pearce, when did you prepare this
12 report?

13 A I had it prepared in advance of our previously scheduled
14 meeting, so six weeks ago. I -- I don't know. Oh, wait a
15 minute. I date them. I date them.

16 Q Can you direct us to where that would be on the actual
17 report?

18 A It's on the cover page. It's the third line, second line
19 down under the title. Not there?

20 Q I'm sorry. Are you looking at Respondent's 308, your
21 report?

22 JUDGE SANDRON: I don't think the date is on the first --

23 A Okay. Then -- I guess I better say I don't because I
24 don't but --

25 JUDGE SANDRON: Do you remember approximately when you

1 would have done it?

2 THE WITNESS: No. But it's in my computer.

3 Q BY MS. YASSERI: When you made a reference to a meeting,
4 were you talking about this hearing, the -- the prior date of
5 this hearing?

6 A Yes.

7 Q Okay. So that would have been some time in October of
8 2022? You don't --

9 JUDGE SANDRON: Well, maybe I can ask. When -- when do
10 you recall when you were first contacted to be an expert
11 witness?

12 THE WITNESS: July 15th.

13 JUDGE SANDRON: So I think he's talking maybe about last
14 year, 2022. So you --

15 THE WITNESS: Oh, absolutely.

16 JUDGE SANDRON: Okay. So it's probably before our either
17 August or October hearings likely?

18 MS. YASSERI: Okay.

19 Q BY MS. YASSERI: And the documents that are referenced in
20 Exhibit C of your report on page 32 of the exhibits.

21 A I'm trying to find my report.

22 Q It should be Respondent Exhibit 308.

23 A I've heard that number, but I don't know that I have it.

24 MR. HILGENFELD: I have an extra one.

25 MS. YASSERI: Okay.

1 JUDGE SANDRON: Thank you.

2 MS. YASSERI: May I approach, Your Honor?

3 JUDGE SANDRON: Yes.

4 THE WITNESS: Thank you.

5 JUDGE SANDRON: I think Counsel's pointing to page 32 of
6 the exhibit.

7 THE WITNESS: Thank you.

8 JUDGE SANDRON: About the Appendix C.

9 MR. HILGENFELD: Oh, I have a 32. Do you have --

10 A Yes, ma'am?

11 Q BY MS. YASSERI: Do you have -- I'm sorry, Dr. Pearce.
12 Are you on page 32?

13 A I am.

14 Q Okay. Now, the -- the documents listed on this page,
15 there appear to be 18 different entries. These are the only
16 documents that you reviewed in preparation of writing this
17 report; is that right?

18 A No. It's a -- it's a stream of consciousness things. So
19 I reviewed 200 articles in -- cited in the article we've been
20 referring to the one in the Hofstra Law Review. So those 200,
21 although not named because this was not a publication document,
22 were certainly referred to.

23 JUDGE SANDRON: Well, are you talking --

24 A Referenced.

25 JUDGE SANDRON: Are you talking about referring to other

1 documents in your report, but not specifically related to
2 Centerline and HMC, because here you're talking about specific
3 documents relevant to the entities that are involved in -- in
4 the incident case.

5 THE WITNESS: The -- the references here --

6 JUDGE SANDRON: Right.

7 THE WITNESS: -- are references that occurred previously
8 from the article that was not about Centerline. And so I had
9 to pick and choose those things that were related specifically
10 to the responsibilities I had in preparing to testify.

11 MS. YASSERI: Okay.

12 JUDGE SANDRON: No. I -- I don't think you're
13 understanding the question.

14 Do you want to --

15 MS. YASSERI: Yeah. Let me -- let me take a step back,
16 Dr. Pearce.

17 MR. HILGENFELD: Ms. Yasseri, we'll stipulate we provided
18 no other additional documents.

19 MS. YASSERI: Okay. Let -- let me just try one more time.

20 Q BY MS. YASSERI: Dr. Pearce, the documents that you relied
21 on in drafting this report --

22 A Yes.

23 Q -- those are all outlined in Appendix C of your report,
24 correct?

25 JUDGE SANDRON: The documents you received from Centerline

1 or its subsidiaries.

2 A No. They -- the Appendix C --

3 Q Yes.

4 A The appendix C was not on the report. The Appendix C was
5 asked of me later. The specific thing was, what should I tell
6 you all about? Which ones -- which documents had I looked at
7 that specifically referred to Centerline and the SPV. That's
8 what this is.

9 JUDGE SANDRON: All right.

10 Q BY MS. YASSERI: Okay. And --

11 A This is not meant to be the documentation for any of this.

12 JUDGE SANDRON: All right.

13 Q BY MS. YASSERI: So let me just clarify. The documents
14 referenced in Appendix C that were given to you by Respondent's
15 Counsel --

16 A Yes.

17 Q -- these are all the documents that were given to you by
18 Respondent's Counsel, correct?

19 A Yes.

20 Q Okay. And do you recall when you received these
21 documents? Did you receive them all at the same time?

22 A No, I didn't.

23 Q Okay.

24 A But I started receiving them right away and received the
25 last one probably three weeks ago.

1 Q When -- what was the last document that you received out
2 of this list on Appendix C?

3 JUDGE SANDRON: If you recall.

4 A Thank you for letting me look. Oh, I don't recall, but I
5 think it was number 4.

6 Q BY MS. YASSERI: That would have been the securitization
7 transaction diagram?

8 A Yes.

9 Q Okay.

10 MR. HILGENFELD: I would -- Your Honor, we would --
11 Respondents would note for the record, we provided this report
12 to the General Counsel in October, give or take October 7th,
13 2022.

14 JUDGE SANDRON: The whole -- this whole document?

15 MR. HILGENFELD: The whole document we gave to General
16 Counsel on October 7th, 2022. Or give or take.

17 THE WITNESS: Yeah. Could I excuse myself for three
18 minutes?

19 JUDGE SANDRON: Yes.

20 MR. HILGENFELD: Can we take an afternoon break, Your
21 Honor?

22 JUDGE SANDRON: We'll -- we'll take a ten-minute recess.
23 Off the record.

24 (Off the record at 3:09 p.m.)

25 JUDGE SANDRON: Back on the record. We discussed, off the



1 record, the fact that all of the documents listed in
2 Respondent's Exhibit 308, page 32, are already in record with
3 the exception of items 15 through 18. These are three
4 declarations and one position statement, and they were
5 previously marked as General Counsel Exhibit 126, 127, 128 and
6 189. They were offered in conjunction with a number of
7 position statements that the Respondent's filed.

8 Mr. Hilgenfeld had objected to their admission. There was
9 a question raised of whether the General Counsel needs to point
10 out inconsistencies or conflicts in the statements or
11 declare -- in the position statements or whether they can be
12 offered and admitted without any such specificity. So I had
13 asked the General Counsel to provide at least one inconsistency
14 or discrepancy in each of the position statements before I
15 would admit them.

16 And at that point, I think, as I understand it, Ms.
17 Yasseri, you had determined that you would hold off on deciding
18 whether to continue to offer them until after the conclusion of
19 the testimony of the Respondent's witnesses, is that a correct
20 understanding?

21 MS. YASSERI: That is correct, Your Honor.

22 JUDGE SANDRON: However, in today's proceeding in light of
23 the fact that the expert witness has relied on those
24 declarations, as 15 to 17 and on page 32 and on the position
25 statement of Harley Marine Financing, which is item 18, I

1 indicated off the record that I would not admit the report
2 unless we have in the record all of the documents on which the
3 expert witness relied.

4 Understanding these circumstances, Mr. Hilgenfeld, that
5 you withdraw your objections to this -- the General Counsel
6 Exhibits 126, 127 and 128 and 189 being received; is that
7 correct?

8 MR. HILGENFELD: That's correct, Your Honor, with the
9 understanding that Respondent's Exhibit 308 is admitted.

10 JUDGE SANDRON: That -- that what?

11 MR. HILGENFELD: With -- with the understanding that
12 Respondent's Exhibit 308, Dr. Pearce's report is admitted.

13 MR. RIMBACH: Yes.

14 JUDGE SANDRON: Okay. Then those, I hereby admit, General
15 Counsel Exhibit 126, 127, 128, 189.

16 **(General Counsel Exhibit Numbers 126, 127, 128 and 189 Received**
17 **into Evidence)**

18 JUDGE SANDRON: The -- well, the General Counsel is still
19 on voir dire of the document, but I --

20 MR. HILGENFELD: Well, Your Honor, without -- without
21 Respondent's 308 getting in, we wouldn't withdraw the
22 objection.

23 JUDGE SANDRON: No. I understand that. I understand.

24 MR. HILGENFELD: Okay.

25 JUDGE SANDRON: So it is a contingent --

1 MR. HILGENFELD: Yes.

2 JUDGE SANDRON: -- withdrawal. So we'll let the General
3 Counsel finish with voir dire and then see if there are any
4 objections.

5 MS. YASSERI: Your Honor, just a point of clarification,
6 did you also mention GC Exhibit 128, the supplemental
7 declaration of Matt Godden?

8 JUDGE SANDRON: Yes.

9 MS. YASSERI: Okay. Thank you.

10 Your Honor, at this time. We would just request that you
11 not consider portions -- any portion of the report that
12 includes legal opinion or legal conclusion. Having said that,
13 we have no other objections to the report.

14 JUDGE SANDRON: Okay. Your position is noted on the
15 record. I will admit Respondent's Exhibit 308, and evaluate
16 its relevance and impact on the allegations at a later point.
17 **(Respondent Exhibit Number 308 Received into Evidence)**

18 MR. HILGENFELD: And with the admission of Respondent's
19 308, Respondents have no further questions for Dr. Pearce at
20 this time, with reserve for redirect.

21 JUDGE SANDRON: And Ms. Yasseri, cross-examination?

22 MS. YASSERI: Yes, Your Honor. Thank you.

23 **CROSS-EXAMINATION**

24 Q BY MS. YASSERI: Good afternoon, Dr. Pearce. Thank you
25 for your patience as we were dealing with these procedural

1 issues.

2 A Thank you for your patience with me. I'm sincere.

3 Q And forgive me, Dr. Pearce if you've mentioned this during
4 direct, but who specifically retained you to serve as an expert
5 on this case? And I believe you said that was in July of 2022?

6 A That was Mr. Hilgenfeld.

7 Q And prior to being retained by Mr. Hilgenfeld in July of
8 2022, did you know him before that time?

9 A I did not.

10 Q What, if anything, Dr. Pearce, did you do to prepare for
11 your testimony today?

12 A So here's this nice list that I -- that I read and
13 studied. And I prepared the report that you have referred to.
14 I had one phone interview with Mr. Godden, Mr. Hilgenfeld, an
15 attorney from work, and an attorney from Centerline. So there
16 were five.

17 Q Without revealing the subject of the conversations you had
18 on -- on that phone interview, I just wanted to know, when was
19 the phone interview; do you recall?

20 A It was early in the process. If I was guessing, I would
21 say September of 2022 and --

22 Q Just for clarity, that was just one phone call?

23 A Just one phone call.

24 Q And they were all present during that call?

25 A That's correct. And then I have had numerous phone calls



1 with Mr. Hilgenfeld asking him questions that I had that arose
2 as a result of my readings.

3 Q Okay.

4 A It's -- when you read it, you're reading down a path and
5 it's hard to know what's on either side of that path. What was
6 the precedent for it, et cetera? And -- and he was able to
7 give me that information. Now, having done it all, read it
8 all, my questions to him must have seemed adolescent because
9 there was so much that I was not clear about.

10 Q Are you being paid to provide your testimony?

11 A I am.

12 Q And who's paying you?

13 A So who writes the checks?

14 Q Yes.

15 A It's his law firm.

16 Q When you say his, are you referring to Mr. Hilgenfeld?

17 A Yes.

18 Q Do you know which entity retained you to provide services?

19 A No.

20 Q How much are you being paid for serving as an expert
21 witness?

22 A I'm paid on an hourly basis.

23 Q And what is your hourly rate, Dr. Pearce?

24 A \$600.

25 Q And who paid you to travel to Los Angeles from your

1 hometown of Pennsylvania?

2 A Who will pay me?

3 Q Or who will -- who will be paying you?

4 A It'll be -- it'll be a result of that agreement that we
5 have.

6 Q Between --

7 A My -- my hourly rate.

8 Q Okay. The question was, who will be paying you for your
9 travel expenses?

10 A The -- the truth is that I send an invoice to him; and
11 what he does with it, I do not know.

12 JUDGE SANDRON: All right. That's Mr. Hilgenfeld?

13 THE WITNESS: Yes, sir.

14 JUDGE SANDRON: And you say, his -- his firm actually
15 writes the check?

16 THE WITNESS: I believe so.

17 Q BY MS. YASSERI: Okay. Dr. Pearce, to date, how much have
18 you billed for your services?

19 A I believe, give or take, two -- 50 -- 50 hours.

20 Q You're making me do the math here.

21 (Counsel confer)

22 Q BY MS. YASSERI: Yeah, about \$30,000?

23 A Yes.

24 Q Okay. Have you -- and just to clarify, have you -- you
25 have not billed for the time today, testifying --

1 A I have not.

2 Q And the \$30,000 that you billed, that also included time
3 that you spent preparing the report that we've talked about,
4 correct?

5 A Absolutely.

6 Q How long did it take you to prepare the report?

7 A I don't know.

8 JUDGE SANDRON: May -- maybe I can just make one -- ask
9 him one question. I think it's self-explanatory. The pages, 1
10 through most of 14, are generic, if you go through it, right.
11 Most of that is the background.

12 And then you start on page 14 with dealing specifically
13 with Centerline; is that correct?

14 THE WITNESS: Yes, sir. Now, that was predictable from
15 the first page. Because on the first page, I repeated the
16 questions that Mr. Hilgenfeld had asked me to answer, as the
17 framework for my report.

18 JUDGE SANDRON: I -- I see. So -- so you were giving, in
19 the first pages, a -- a general background of the document and
20 how it applies to SPVs?

21 THE WITNESS: Exactly, as he had asked.

22 JUDGE SANDRON: And then, at the end -- then, at the -- on
23 page 14, you started specifically addressing Centerline?

24 THE WITNESS: As he asked.

25 Q BY MS. YASSERI: To follow -- to follow-up on -- on Judge

1 Sandron's questions, Dr. Pearce, with respect to that first
2 section of your report, which appears on page 3 of Respondent's
3 Exhibit 308, it's entitled, Special Purpose Vehicle. It has a
4 footnote 1, at the top; do you see that? And it references an
5 "Appendix A", at footnote 1.

6 A I'm sorry, mine -- I'm not getting any of that.

7 Q Okay. Okay, no problem.

8 A No -- no, no, no -- I want to.

9 Q I'm going to take -- I'll -- I'll take a step back. I was
10 directing you to Respondent Exhibit 308, your report, to page
11 3. And when I say, page 3, Dr. Pearce, I'm talking about the
12 Bates-labeled number on the lower right-hand corner.

13 A Thank you. Yay, I -- okay.

14 Q Okay. Footnote 1 of your re -- of your report, it
15 references an Appendix A.

16 A Yes.

17 Q Okay. And this Appendix A is essentially -- it's
18 essentially a copy and paste of your 2011 --

19 A It is.

20 Q -- article, correct?

21 A It is.

22 Q And that was the 2011 article -- I believe it was GC
23 Exhibit 294 -- that was admitted into evidence; the one
24 entitled, Special Purpose Vehicles and Bankruptcy Litigation?

25 A Correct.

1 Q Dr. Pearce, what additional information did you include in
2 the first section of the report, that wasn't included in your
3 article from 2011?

4 JUDGE SANDRON: I don't know if he can -- he can answer
5 that without comparing the -- the two.

6 THE WITNESS: To the extent that the article addressed
7 those general questions about, describe special purpose
8 vehicle", how's it related to -- the information from that,
9 came from the article.

10 Q BY MS. YASSERI: Okay. And that was the article from
11 2011, correct?

12 A Correct. Yes.

13 Q Now, in 2011, you didn't do any work for Harley Marine
14 Financing or Centerline, correct?

15 A I did not.

16 Q Okay. So you didn't use any facts related to Harley
17 Marine Financing or Centerline, to draft the sections -- the
18 first sections of your report and or Appendix 1 (sic), correct?

19 A That's correct.

20 Q Okay. What you included were generalized knowledge about
21 SPVs and how they operate, to draft those sections of the
22 report?

23 A Yes.

24 Q Now, I'd like to direct your attention to page 7 of the
25 report.

1 A Yes.

2 Q The last paragraph on that page, you refer to -- you state
3 that there are six steps in a SPV securitization process; do
4 you see that?

5 A I do.

6 Q Okay. And step 1 is when the originator identifies the
7 pool of assets to be securitized, correct?

8 A Yes.

9 Q And in this case, the originator here is Centerline; is
10 that right?

11 A The originator -- wait a minute. The pool of assets, in
12 this particular case, was not -- was not Centerline, and it
13 wasn't the P -- SPV. It was a third party -- a third party, in
14 discussions with US Bank.

15 Q Do you know the name of the third party?

16 A I -- I should -- I do. I bet you I will by the time we're
17 done talking.

18 Q Okay. Okay. I can come back.

19 A Wait a minute -- wait a minute -- wait a minute -- wait a
20 minute -- it may come to me. I'm sorry.

21 JUDGE SANDRON: All right. If you recall it, then just
22 speak up and tell us.

23 THE WITNESS: Yes, sir -- Guggenheim.

24 Q BY MS. YASSERI: Guggenheim, okay. And is it your
25 understanding that Guggenheim identified the pool of assets, on

1 behalf of Centerline?

2 A I don't know the answer to that. I've not spoken to, nor
3 read anything by that consulting firm.

4 Q Okay.

5 JUDGE SANDRON: Well, so that's a consulting firm --

6 THE WITNESS: I -- I --

7 JUDGE SANDRON: -- if you recall?

8 THE WITNESS: I should have said, consulted. I -- I
9 don't --

10 JUDGE SANDRON: Consulted.

11 THE WITNESS: Yes.

12 Q BY MS. YASSERI: And do you -- well, you didn't have a
13 role at Centerline when Gugg -- when Guggen -- Guggenheim
14 identified their pool of assets --

15 A I did not.

16 Q -- and transfer that to Harley Marine, correct?

17 A Correct. Harley Marine Financing.

18 Q Thank you. Thank you, Dr. Pearce.

19 A No, no -- I do it to -- because I need to keep it
20 straight, because -- I mean, where did the assets come from?
21 The assets -- well --

22 Q Dr. Pearce, were you consulted or involved, in any way,
23 when there were decisions being made about what assets would or
24 would not be included in that securitization?

25 A No.

1 Q Okay. Were you consulted or involved, in any way, when
2 the decisions were being made about how the assets were
3 isolated and prepared for their transfer to Harley Marine
4 Financing?

5 A No. May I offer a quick solution for this?

6 Q No, Dr. Pearce --

7 JUDGE SANDRON: Wait.

8 Q BY MS. YASSERI: I -- I'll be the one asking questions.

9 MR. HILGENFELD: Well, I believe he's testified that he
10 had had no direct contact --

11 JUDGE SANDRON: Yes.

12 MR. HILGENFELD: -- either directly or indirectly --

13 JUDGE SANDRON: I think maybe you can --

14 MR. HILGENFELD: -- with anybody prior to this.

15 JUDGE SANDRON: -- handle it in one question, and --
16 because I think he has -- had said he had no connection with
17 Centerline, or any of the subsidiaries, until he was contacted
18 by Mr. Hilgenfeld.

19 JUDGE SANDRON: Bless you.

20 MS. YASSERI: Excuse me. Thank you.

21 Q BY MS. YASSERI: Now, going back to the securitization
22 process steps, Dr. Pearce; step 3 is when the originator takes
23 steps to makes the SPV bankruptcy remote, correct?

24 And just for clarity of the record, you didn't have any
25 role at Centerline in 2018, when HMF was formed, correct?

1 A Correct.

2 MR. HILGENFELD: Stipulated.

3 JUDGE SANDRON: All right. I -- I think he said he had no
4 connection, at all --

5 MS. YASSERI: Okay.

6 JUDGE SANDRON: -- with any of the entities before 2022.

7 MR. HILGENFELD: That is correct, Your Honor.

8 Q BY MS. YASSERI: Dr. Pearce, at any point in time, did you
9 interview employees of Centerline, to -- to learn how that
10 company functionally operated under any of the agreements that
11 were referenced in Appendix C of your report?

12 A There's one possibility that you would include, and that
13 was in that phone call that we referenced previously, where
14 counsel for Centerline talked briefly about operations there.

15 Q Okay. Did you have any conversations directly with any
16 Centerline employees about their operations, and -- and their
17 operating structure, under the agreements referenced in your
18 report?

19 A No, I did not.

20 JUDGE SANDRON: So you relied on the declarations that
21 we've discussed, and the position statement --

22 THE WITNESS: Yes, sir.

23 Q BY MS. YASSERI: And what was discussed during that
24 conversation?

25 A Which one, ma'am?

1 Q The one that you said with Mr. Godden -- when Mr. --

2 A Oh, okay, yeah.

3 Q -- Mr. Godden was present.

4 A I should say that, 10 percent was me, and 85 percent was
5 Mr. Godden, and 5 percent was the other people in the room.

6 Mr. Godden --

7 Q Would --

8 A -- helped me understand the history of Centerline,
9 expressed his willingness to be involved if I ever needed to
10 talk with him, shared documents; but -- but no specification as
11 to what that meant. I did not take advantage of those
12 invitations. There was no discussion of anything proprietary.
13 He didn't talk about plans for the company or anything. It
14 was -- it was valuable, but it was background material.

15 (Counsel confer)

16 Q BY MS. YASSERI: What was your understanding of the
17 purpose of that meeting?

18 A I would guess that -- I would -- I -- I would just be
19 guessing. I -- I --

20 Q Well, do you know why -- why you were participating in the
21 meeting?

22 A Say it again?

23 Q Do you know why you were participating in the meeting?

24 A Well, the meeting was held for my benefit.

25 Q So --

1 A I think it's reasonable for me to speculate that -- that
2 he wanted to know what kind of person I was if I was going to
3 represent his company. That he wanted to know -- he wanted me
4 to know that he would answer any question, because I -- he said
5 so, and I always took him at his word. But I didn't even know
6 what the questions were.

7 Q Did you have an understanding of Mr. Godden's role -- with
8 respect to Centerline, Harley Marine Financing, Westoil, Leo
9 Marine Services, and Olympic Tug and Barge at the time of this
10 phone call?

11 A Not in a meaningful way, I did not. I -- I did know about
12 that, but -- because I'd seen some early documents, but I
13 didn't -- I had no depth of understanding.

14 Q You mentioned that Mr. Godden spoke about 85 percent of
15 that telephonic interview; at any point in time, did he talk
16 about his roles -- each of his roles at those entities --
17 those -- those companies?

18 A He mentioned them, but he didn't --

19 Q What --

20 A -- he didn't describe them. He did not.

21 Q Okay. Now, on direct examination, you testified that SPVs
22 are bankup -- bankruptcy remote, correct?

23 A Yes.

24 Q But SPV -- SPVs are not bankruptcy proof, correct?

25 A That is true, but -- but if I may --

1 Q I'm -- I'll follow up.

2 JUDGE SANDRON: Hold on, if you would.

3 Q BY MS. YASSERI: I'll follow up.

4 A Okay.

5 Q Thank you. Thank you, Dr. Pearce. And not being
6 bankruptcy proof means that an SPV structure may be pierced,
7 substantively consolidated, or legally modified by courts,
8 correct?

9 A In theory.

10 Q Okay. And you talked about this in your 2011 article --

11 A Thank goodness.

12 Q And this is why an SPV is bankruptcy remote, but not
13 bankruptcy proof.

14 MR. HILGENFELD: I would just note for the record, that
15 Ms. Yasseri is asking questions that she had deemed were legal
16 conclusions, and I believe that's a waiver for a prior
17 objection.

18 JUDGE SANDRON: Well, I -- I think had indicated that I --
19 I would allow her to cross-examine without waiving her --

20 MR. HILGENFELD: I'm just noting it for the record.

21 JUDGE SANDRON: Yes.

22 Q BY MS. YASSERI: Let me ask the question again, Dr.
23 Pearce. In your 2011 article, which is part of the record, you
24 talked about the fact that bank -- bankruptcy proof means that
25 an SPV -- not being bankruptcy proof means that an SPV

1 structure may be pierced, substantively consolidated, or
2 legally modified by the courts, correct?

3 A In theory.

4 Q Okay. And you talked about that in your 2011 article?

5 A Yes.

6 Q Okay. That this is why an SPV is bankruptcy remote, but
7 not bankruptcy proof.

8 A Nicely done.

9 Q And in your 2011 article, you also talked about how courts
10 can modify or disregard the SPV structure in various contexts,
11 correct?

12 A If I said, various contexts, that was a misstatement by
13 me. And had the -- had those three words been left off, I
14 would have been right. "In various context", opens the door
15 for me to be horrendously wrong.

16 Q Okay.

17 A Because I only know of one circumstance where a
18 modification occurred, and it -- and I -- and you'll have to
19 read up how the law community reacted to that.

20 JUDGE SANDRON: All right.

21 Q BY MS. YASSERI: Okay.

22 JUDGE SANDRON: All right.

23 Q BY MS. YASSERI: Okay.

24 JUDGE SANDRON: Well, yeah, I mean, I -- I think we can
25 essentially assume that courts do have the power to set aside

1 either full agreements or parts of agreements. I don't think
2 anybody can dispute that.

3 Q BY MS. YASSERI: So Dr. Pearce, you would agree with me
4 that just because someone sets up an SPV, calls it an SPV, it
5 doesn't necessarily mean that the SPV is liability proof,
6 correct?

7 A That is truer today than it was when SPVs were attacked
8 because of legal violations.

9 Q Yes. I -- I'm not talking about those, and we'll --
10 we'll -- for right now, but I'm talking about today.

11 A Yes, ma'am, that's true.

12 Q That's true. Okay. And Dr. Pearce, you're not an
13 expert regarding a company's liabilities and responsibilities,
14 including companies that are SPVs, under the National Labor
15 Relations Act, correct?

16 A That's --

17 MR. HILGENFELD: Objection. Compound.

18 A -- correct.

19 JUDGE SANDRON: Well, I think he answered it.

20 MS. YASSERI: He answered.

21 JUDGE SANDRON: Did -- did you understand the full
22 question, or -- or do you want it broken up? We're not trying
23 to confuse you.

24 THE WITNESS: I'm not confused. I'm --

25 MS. YASSERI: He's not confused.



1 JUDGE SANDRON: No, I mean, the question.

2 THE WITNESS: I --

3 MS. YASSERI: I'll move on. It -- it -- I think it was
4 answered, Your Honor.

5 THE WITNESS: I --

6 MR. HILGENFELD: No, I believe there's an answer, here,
7 that he's trying to give.

8 THE WITNESS: Would you mind?

9 JUDGE SANDRON: Well -- well, maybe -- I'll tell you what,
10 are you -- are you familiar with the National Labor Relations
11 Act?

12 THE WITNESS: No.

13 JUDGE SANDRON: Okay.

14 Q BY MS. YASSERI: And I believe, Dr. Pearce, you testified
15 that Harley Marine Financing is set up with a profit motive; is
16 that right?

17 A I did not say that, but I would be glad to answer if you
18 ask me.

19 Q Is Harley Marine Financing set up with a profit motive?

20 A It has a two-pronged responsibility. First -- and they
21 are -- and they were counter to each other. The fir -- the
22 first prong, is to protect the assets of investors. And the
23 second one is to maximize the return on the assets, for the
24 benefit of the investors.

25 Q And maximizing on the return for the benefit of the

1 investors, how is that quantified?

2 A First of all, it was a statement of purpose, so it
3 wouldn't, by definition, have a measurable outcome, but
4 everything else is measured by standards. So what is the
5 standard in the industry, to the degree that that's
6 ascertainable. And that would be the answer.

7 Q Okay. And you would agree with me that, generally, an SPV
8 is supposed to make no substantive economic decisions, correct?

9 A Yes, that -- that -- that's correct --

10 Q And --

11 A -- unless that's the guidance of the manager, which is, by
12 definition, backed by the board of directors of the SPV.

13 Q Well, isn't it true that the SPV is supposed to just be
14 holding the bal -- valuable securitized asset for the
15 investors? That's one of the principle responsibilities,
16 correct?

17 A Oh, it -- absolutely. Principle --

18 Q Okay.

19 A -- yes. Absolutely.

20 Q Okay. But -- and you would also agree with me that SPV
21 forms can be abused, right?

22 A Theoretically. Ask me that question in the year 2006, I
23 would have, unqualified, said yes.

24 Q Okay.

25 A But the rules, regulations, and hearings since then have

1 caused the number of cases of bad behavior to drop
2 precipitously.

3 Q Right, but that doesn't mean it's not going to happen.

4 A Agreed.

5 Q That just means that there's been a decrease in --

6 A Agreed.

7 Q -- in frequency?

8 A Agreed.

9 Q And securitization can lead to abusive transactions,
10 correct?

11 A Theoretically, yes.

12 Q I think you've men -- and forgive me, I -- I know this
13 came up in your article, and I don't -- I think you've been
14 alluding to it today -- but was Enron one of those situations?

15 A Absolutely.

16 Q Okay.

17 A No -- now, it's in a class by itself. There's no equal to
18 Enron's violations.

19 Q Okay. Now, I'd like to transition to talking about the
20 true sale doctrine --

21 A Yeah.

22 Q -- that came up in -- in your direct examination. Isn't
23 it true, Dr. Pearce, that courts have broad discretion in
24 ruling on whether a -- a transaction constitutes a true sale or
25 just a loan?

1 MR. HILGENFELD: I'm going to object. That certainly
2 sounded like a legal con -- legal conclusion.

3 JUDGE SANDRON: Well, I -- I think, as I said --

4 MR. HILGENFELD: But this was due to courts. This isn't
5 even -- isn't a commercially viable issue on the true sale.
6 This was due to the courts' find.

7 JUDGE SANDRON: All right. Well, there's kind -- kind of
8 a -- a murky area, in terms of the distinction between the
9 commercial, which -- which obvious -- the commercial aspects,
10 which obviously you have to -- to take into consideration the
11 courts, and then the legal aspects that are separate from the
12 commercial.

13 So I -- I'm not sure, at this point, you know, if I can
14 meaningfully distinguish them. But -- so I allowed the
15 testimony that the General Counsel contended was legal and
16 import, and I think the General Counsel, without waiving her
17 objection, can do the same.

18 MR. HILGENFELD: I don't believe I was asked to provide
19 any of -- any information. When Dr. Pearce said, "the courts
20 have said", very quickly, he was stopped. I don't believe
21 there was any testimony permitted about what the courts said.
22 And this just --

23 JUDGE SANDRON: Well, that -- that was a specific case, I
24 think, we were talking about, in general.

25 MR. HILGENFELD: Well, Ms. Yasseri is asking specifically

1 about what the courts said.

2 JUDGE SANDRON: Are -- are you --

3 MS. YASSERI: No, I --

4 JUDGE SANDRON: Are you talking about a specific case?

5 MS. YASSERI: No, I'm not, Your Honor.

6 JUDGE SANDRON: No, I -- I think it was just --

7 MS. YASSERI: I'm just referencing courts, in general.

8 JUDGE SANDRON: It was general.

9 MR. HILGENFELD: Okay.

10 JUDGE SANDRON: So I -- I think that's the distinction.

11 Q BY MS. YASSERI: Dr. Pearce, I'll ask the question again.

12 A Thank you.

13 Q Isn't it true that courts have broad discretion in ruling
14 on whether a transaction constitutes a true sale or just a
15 loan?

16 A I don't know the answer to that.

17 Q Okay.

18 JUDGE SANDRON: All right. I -- I -- as I said, I think
19 we can just, you know, take as a fact that courts, at a certain
20 point, do have authority over all transactions. You know,
21 especially if they think there's abuse.

22 (Counsel confer)

23 Q BY MS. YASSERI: Dr. Pearce, can I have you refer to
24 General Counsel's Exhibit 294. Do you have a copy of your
25 article -- your -- your law review article?

1 A Oh -- oh.

2 Q Is that up there?

3 JUDGE SANDRON: It should be up there, I think.

4 A Yes.

5 Q BY MS. YASSERI: Okay. I want to direct you to --

6 A Yes.

7 Q I want to direct you to page 16 of the exhibit.

8 A I'm there.

9 Q And if I can direct your attention to the section under,
10 "True sale doctrine", to the second paragraph, to that first
11 sentence.

12 A Yes.

13 Q Does that refresh your recollection as to whether
14 courts have broad discretion in ruling on whether a transaction
15 constitutes a true sale or just a loan?

16 A It does. I --

17 Q And so the answer is yes to that question that courts do
18 have broad discretion in ruling on whether a transaction
19 constitutes a true sale or just a loan?

20 A Yes.

21 Q Okay. And this determination is made on a case-by-case
22 basis, based on the totality of circumstances --

23 A Yes.

24 Q -- right?

25 MR. HILGENFELD: Your Honor -- Your Honor, as you stated,

1 I think we understand that different courts apply different
2 factors and different circumstances differently.

3 JUDGE SANDRON: I think that would be safe to assume.

4 MS. YASSERI: Okay.

5 JUDGE SANDRON: There's nothing in the record to indicate
6 that the situation in which we're dealing has ever come before
7 a court for review, correct? I mean, as far as -- there's no
8 evidence of that.

9 (Counsel confer)

10 MS. YASSERI: But Your Honor --

11 JUDGE SANDRON: Yes.

12 MS. YASSERI: Well, I'll move on -- I'll move on, Your
13 Honor.

14 JUDGE SANDRON: Well, but again, I -- I think it's safe to
15 assume that -- you know, that courts have the authority to
16 overturn or modify SPV agreements.

17 Q BY MS. YASSERI: Now, Dr. Pearce, there's been no court
18 determination regarding whether the transfer of assets -- I'm
19 sorry, Dr. Pearce, can you please put that exhibit away. Thank
20 you.

21 MS. YASSERI: Thank you.

22 Q BY MS. YASSERI: There's been no court determination
23 regarding whether the transfer of assets between Centerline,
24 Harley Marine Financing, or Westoil Marine Serves constituted a
25 true sale, correct?

1 A Not to my knowledge.

2 JUDGE SANDRON: All right. I guess, we could say, was
3 there any court determination that did not constitute a valid
4 sale?

5 THE WITNESS: It's -- I still --

6 JUDGE SANDRON: Well, you -- you -- I am going --

7 THE WITNESS: I still don't know.

8 JUDGE SANDRON: Yeah, the witness is not really in the
9 best position to answer those, but -- would -- would the
10 parties stipulate, there's no court determination on the
11 validity of the sale, one way or the other?

12 MS. YASSERI: Yes.

13 JUDGE SANDRON: And Mr. Hilgenfeld?

14 (Counsel confer)

15 MR. HILGENFELD: I think if we were defining things as a
16 traditional court, we would agree, Your Honor.

17 (Counsel confer)

18 MS. YASSERI: As well as, you know, administrative courts,
19 Your Honor. I -- I don't know what you mean by, traditional.

20 JUDGE SANDRON: All right. Leaving aside this proceeding.

21 MR. HILGENFELD: As I understand it, filings are made on
22 different documents. And that goes way beyond what I
23 understand of what they've done with those documents. So it
24 goes beyond what I can stipulate to, as we sit here today.

25 I will say --

1 JUDGE SANDRON: Do --

2 MR. HILGENFELD: -- that information certainly wasn't
3 given to Dr. Pearce, and we'll stipulate Dr. Pearce --

4 JUDGE SANDRON: All right.

5 MR. HILGENFELD: -- has no knowledge or information, one
6 way or the other.

7 JUDGE SANDRON: Well -- well -- well, can -- can we
8 stipulate there's been no proceedings, and -- well, these would
9 come under Federal court, I assume --

10 MR. HILGENFELD: There's been no proceedings to --

11 JUDGE SANDRON: -- Federal --

12 MR. HILGENFELD: -- enforce or vacate the sale, as not
13 being a true sale. We can stipulate to that.

14 JUDGE SANDRON: All right. Stipulation is received.

15 (Counsel confer)

16 Q BY MS. YASSERI: Dr. Pearce, in your -- in your report,
17 Respondent's Exhibit 308 --

18 A Can I look at it again?

19 Q Well, it's just a general question, but sure. Why not?
20 I'll -- I'll direct you to page 28 -- I'm sorry, page 29, under
21 the true sale doctrine. You relied on legal case law to form
22 your opinion on --

23 A I'm sorry --

24 Q -- the issue of legal separateness --

25 A I -- I'm looking at page 29, and I don't see what --

1 Q Again --

2 MR. HILGENFELD: They're --

3 JUDGE SANDRON: This is on the bott -- all right.

4 MR. HILGENFELD: She's using the Bates --

5 Q BY MS. YASSERI: -- when I say the page, Dr. Pearce, I'm
6 referring to the Bates-label on the bottom right-hand corner.

7 A As am I.

8 Q Oh, this is Respondent's Exhibit 308 --

9 JUDGE SANDRON: Your -- your report.

10 Q BY MS. YASSERI: -- your report. On page 29 of Exhibit
11 308.

12 MR. HILGENFELD: Do you mean 29 or 30, Ms. Yasseri?

13 A Yes.

14 MS. YASSERI: 29.

15 A I have it, and I see --

16 MR. HILGENFELD: Okay.

17 A -- the section you're referring to.

18 Q BY MS. YASSERI: Okay. Now, you relied on legal case law
19 to form your opinion on legal separateness -- on the legal
20 sep -- separateness of Harley Marine Financing as an SPV,
21 correct?

22 A Correct.

23 Q You did. Okay. Now, Dr. Pearce, do you have any personal
24 knowledge regarding how Harley Marine Financing, Centerline, or
25 Westoil Marine Services make their business decisions?

1 A No.

2 Q Do you have any personal knowledge of who makes decisions
3 for Harley Marine Financing, Centerline, or Westoil Marine
4 Services on a daily basis?

5 MR. HILGENFELD: Objection. Compound.

6 MS. YASSERI: I can break it up.

7 JUDGE SANDRON: Well, I -- I --

8 THE WITNESS: Would you --

9 JUDGE SANDRON: Well, I think he can -- he -- he can
10 answer it, probably. I mean, if his answer is no, or --

11 MR. HILGENFELD: I'm not sure it's no for Harley Marine
12 Financing.

13 JUDGE SANDRON: Oh, I see.

14 MS. YASSERI: Okay. I'll break it up --

15 JUDGE SANDRON: All right, then.

16 MS. YASSERI: -- Your Honor, just for clarity of the
17 record.

18 JUDGE SANDRON: Yeah, maybe you can break it up.

19 MS. YASSERI: I'd be happy to do that.

20 Q BY MS. YASSERI: Dr. Pearce, I'll go again. Do you have
21 any personal knowledge of who makes decisions for Harley Marine
22 Financing, on a day-to-day basis?

23 A Yes, because I have knowledge of the management agreement.

24 Q Okay. And under the management agreement, what is your
25 understanding of who makes decisions, on a daily basis, for

1 Harley Marine Financing?

2 A This makes decisions kind of thing -- I'm having trouble
3 with -- with makes decisions, makes -- sets policy, or -- or
4 decides whether or not the policy is abblc -- applicable.
5 These would both be decisions and they're worlds apart.

6 Q Okay. Well, let's break it up.

7 A Okay.

8 Q So do you have personal knowledge on who has the authority
9 to set policy for Harley Marine Financing?

10 A Yes.

11 Q Okay. And that -- and your personal knowledge arises
12 under the management agreement, correct?

13 A Ye -- and the -- and the assignment of the manager.

14 Q And who has the authority to formulate policy on behalf of
15 HMF?

16 A I'm not trying to be difficult. Policy is like saying,
17 rules; who sets rules? There are all kinds of rules at all
18 kinds of levels, and so the answer would be the appropriate
19 person. And that -- that -- there might -- when we say,
20 manager --

21 Q Um-hum.

22 A Manager could be talking 50 people. And so I -- I can't
23 give an -- a straight answer.

24 Q Can you point to a specific person, by name, who you know
25 makes decisions regarding Harley Marine Financing on a daily

1 basis?

2 A No.

3 Q Okay.

4 A I cannot.

5 Q Okay. Do you have any personal knowledge of who makes
6 decisions for Centerline on a daily basis?

7 A No.

8 Q Do you have any personal knowledge of who makes decisions
9 for Westoil Marine Services on a daily basis?

10 A No.

11 Q Do you have any personal knowledge of who makes decisions
12 for Leo Marine Services on a day-to-day basis?

13 A No.

14 Q Do you have any personal knowledge on who makes decisions
15 for Olympic Tug and Barge on a day-to-day basis?

16 A No.

17 Q Now, you -- you -- you know that Matthew Godden has a role
18 in Harley Marine Financing, correct?

19 A Yes.

20 Q And what's your understanding of his role?

21 A He is an executive for Centerline that has the management
22 contract with the SPV.

23 Q But you don't know who Mr. Godden delegates work to,
24 correct?

25 A Correct.



1 Q And you don't know who actually performs any of Harley
2 Marine Financing -- Financing's work, correct?

3 A Other than to say that it is an employee of Centerline, or
4 a contractual arrangement involving Centerline, I don't.

5 Q Okay. And Dr. Pearce, you have no involvement when labor
6 relations decisions are made on behalf of either Harley Marine
7 Financing, Centerline, or Westoil Marine Services, correct?

8 A I know enough you'd want to break that down into three
9 parts.

10 Q Okay. You have no involvement, with respect to labor
11 relations decisions for Harley Marine Financing --

12 MR. HILGENFELD: I'm going to object. Are you asking if
13 Dr. Pearce has involvement?

14 JUDGE SANDRON: Yeah, I think you said, does he.

15 MS. YASSERI: Yes.

16 MR. HILGENFELD: That Dr. Pearce has involvement?

17 MS. YASSERI: I'm sorry -- I'm sorry. Thank you.

18 JUDGE SANDRON: Do you mean Mr. Godden?

19 MS. YASSERI: No.

20 Q BY MS. YASSERI: The question was, do you know who's
21 involved with respect to labor relations decisions for Harley
22 Marine Financing?

23 A Yes, I do.

24 Q And who is that?

25 A No one.

1 Q Okay. Do you know who's involved with -- with respect to
2 labor relations matters for Centerline?

3 A No, I do not.

4 Q Do you know who's involved with respect to labor relations
5 matters for Westoil Marine Services?

6 A No, I do not.

7 Q Now, let's talk a little bit about FDI (sic throughout)
8 Consulting.

9 JUDGE SANDRON: Okay --

10 Q BY MS. YASSERI: I know that name had come up during your
11 direct -- direct examination.

12 JUDGE SANDRON: Well, let me -- let me just say, it's --
13 it's getting close to 4:15; do you have a lot more --

14 MS. YASSERI: Yes.

15 JUDGE SANDRON: Well, we're not going to finish today.

16 MR. HILGENFELD: Understood, Your Honor.

17 JUDGE SANDRON: Okay.

18 MS. YASSERI: Okay.

19 JUDGE SANDRON: That's fine.

20 MS. YASSERI: Okay.

21 JUDGE SANDRON: So -- so we'll adjourn at 5 today.

22 MS. YASSERI: Okay.

23 JUDGE SANDRON: Okay.

24 MR. HILGENFELD: Understood.

25 JUDGE SANDRON: Because I assume you're going to have, Mr.

1 Hilgenfeld, redirect. So --

2 MR. HILGENFELD: I mean, I don't think I have much
3 redirect, but if Ms. Yasseri goes past 5:00, then we'd have to
4 come back --

5 MS. YASSERI: I'll try, but I --

6 MR. HILGENFELD: -- we'd have to come back tomorrow.

7 JUDGE SANDRON: Well -- well -- well --

8 MR. HILGENFELD: We'd have to come back tomorrow.

9 MS. YASSERI: We may. I -- I can speed up, Your Honor.

10 JUDGE SANDRON: All right. Well --

11 THE WITNESS: It's -- it's 10 after 4; is that right?

12 MR. HILGENFELD: Correct.

13 JUDGE SANDRON: Closer to quarter after. So we'll --
14 we'll give you a break.

15 MR. HILGENFELD: You get a break at 5:00.

16 JUDGE SANDRON: And -- and you can get a little rest
17 tonight before coming back.

18 MS. YASSERI: Okay.

19 JUDGE SANDRON: All right. There -- I know there's a lot
20 of subjects here, and a lot of information. So -- they say,
21 justice cannot be rushed. Go ahead.

22 Q BY MS. YASSERI: Dr. Pearce, you testified about how
23 Harley Marine Financing has a backup manager, right?

24 A Yes.

25 Q And that was FDI Consulting, if I understood the

1 designation correctly, right?

2 A Yes.

3 Q You didn't review any documents related to FDI Consulting
4 for your report; did you, Dr. Pearce?

5 A I did.

6 Q They weren't referenced in Appendix C.

7 A I didn't speak on the matter.

8 Q Why not?

9 A There was nothing for me to want to say.

10 Q What -- what documents did you review, with respect to FDI
11 Consulting?

12 A If I may -- may, I'm just looking for the -- I will
13 recognize it immediately when I see -- it's number 8,
14 transition management and consulting agreement.

15 Q Okay.

16 JUDGE SANDRON: Well -- well that's on -- on page 32.

17 THE WITNESS: That -- that -- that's Exhibit 308; the list
18 of --

19 JUDGE SANDRON: I see.

20 THE WITNESS: -- materials.

21 JUDGE SANDRON: Number 8.

22 THE WITNESS: Yes, sir.

23 Q BY MS. YASSERI: Okay. Dr. Pearce, do you have any
24 knowledge regarding how FDI Consulting interacts with Harley
25 Marine Financing, on a day-to-day basis?

- 1 A I do not.
- 2 Q No.
- 3 MR. HILGENFELD: Ms. Yasseri.
- 4 MS. YASSERI: Yes.
- 5 MR. HILGENFELD: "T".
- 6 MS. YASSERI: I'm sorry. What did I say?
- 7 MR. HILGENFELD: "D".
- 8 MS. YASSERI: Oh, thank you.
- 9 MR. HILGENFELD: No problem.
- 10 MS. YASSERI: Thank you.
- 11 MR. HILGENFELD: No problems.
- 12 MS. YASSERI: Just noting for the record, it's FTI
- 13 Consulting.
- 14 JUDGE SANDRON: FTI.
- 15 Q BY MS. YASSERI: Dr. Pearce, in preparation to draft your
- 16 report, did you review any FTI Consulting analysis --
- 17 A No.
- 18 Q -- for HMF? Okay. And I believe, in your report, you
- 19 state that FTI Consulting can recommend the removal of
- 20 Centerline, as manager of HMF?
- 21 A Yes.
- 22 Q But that recommendation doesn't have to be adopted by the
- 23 board of Harley Marine Financing?
- 24 A No.
- 25 Q I want to talk a little bit now, Dr. Pearce, about some of

1 the documents that have -- that are referenced in Appendix C of
2 your report. And I understand, your knowledge of how Harley
3 Marine Financing, Centerline, and Westoil -- well, Centerline
4 and its subsidiaries, including Westoil -- your knowledge
5 regarding their operations; is that based on the documents that
6 were specifically given to you by Mr. Hilgenfeld?

7 A Yes.

8 Q Okay. And that was after you were retained by his firm in
9 July of 2022?

10 A Yes.

11 JUDGE SANDRON: All right. Just -- just so we have it on
12 the record; was it Mr. Hilgenfeld who contacted you initially,
13 or somebody else?

14 THE WITNESS: Yes, sir, it was him.

15 Q BY MS. YASSERI: Now, I want to direct your attention to
16 Appendix C, Dr. Pearce. Again, the last page of Exhibit --
17 Respondent Exhibit 308.

18 A Um-hum.

19 Q Are those the only company documents that you reviewed in
20 order to draft your expert report, and testify today?

21 A Yes.

22 Q You didn't conduct any independent research?

23 A No.

24 Q No. And you didn't review any meeting minutes of Harley
25 Marine Financing?

1 A Can we back up to my last, no?

2 Q I'll -- I'll -- I'll follow up in a second.

3 A Okay.

4 Q Yeah.

5 A No, I did not.

6 Q Okay. And just on that note, you didn't review any
7 minutes regarding Centerline?

8 A No.

9 Q And you didn't review any minutes regarding Westoil?

10 A No.

11 Q Okay. Did you review any management notes about decisions
12 being made regarding Harley Marine Financing?

13 A No.

14 Q Did you review any management notes regarding decisions
15 being made about Centerline?

16 A No.

17 MR. HILGENFELD: I'm going to object, to the extent it
18 says -- outside the securitization document context, I'm
19 assuming is where the question is coming from.

20 JUDGE SANDRON: Outside what?

21 MR. HILGENFELD: The question was broad enough that it
22 would also include the securitization documents, when you're
23 talking about decisions made.

24 MS. YASSERI: Okay. I'm not understanding the objection.

25 MR. HILGENFELD: My -- my objection is, the question was



1 so broad, all the documents in this list involve decisions
2 those companies made to sign those documents.

3 MS. YASSERI: Oh.

4 MR. HILGENFELD: So I'm assuming the question is, outside
5 of the documents presented.

6 JUDGE SANDRON: Right. Is that what you meant?

7 MS. YASSERI: Yes.

8 Q BY MS. YASSERI: Dr. Pearce, outside of the -- the
9 documents that were referenced in Exhibit -- Appendix C of your
10 report, you didn't review any other notes about decisions
11 regarding Centerline, Harley Marine Financing, or Westoil,
12 correct?

13 A Correct.

14 Q Okay.

15 MR. HILGENFELD: I believe he's testified he didn't review
16 any other documents that aren't listed here, so I think that
17 would include any other documents Ms. Yasseri is asking about.

18 JUDGE SANDRON: Yes, I -- I believe he said that.

19 Q BY MS. YASSERI: And -- and sort of preparing to draft
20 your report, Dr. Pearce, did you become familiar with
21 individuals who did work on behalf of Harley Marine Financing?

22 A No.

23 Q Okay. You mentioned a phone call with Matthew Godden, and
24 I see that his declaration was included as part of Appendix in
25 your report. Are you familiar with an individual by the name

1 of Doug Houghton?

2 A A little.

3 Q Okay. How -- how are you familiar?

4 A I understand that he works in Centerline's office, and
5 receives direction from Mr. Goddard (sic) -- more than that, I
6 don't know.

7 Q Did you mean Mr. Godden? I think you said, Goddard.

8 A I apologize. I meant, Godden.

9 Q Godden. Okay. Did you interview Mr. Houghton before
10 preparing your report?

11 A I did not.

12 Q And why not?

13 A Why?

14 JUDGE SANDRON: Well, I think whatever he was given by,
15 you know, the company's attorney, that's -- was why he was told
16 to -- to review.

17 MS. YASSERI: Okay.

18 Q BY MS. YASSERI: Are you familiar with an employee by the
19 name of Jennifer Beckman?

20 A I've seen her name, and a document by her.

21 Q That was one of the documents that Mr. Hilgenfeld provided
22 to you?

23 A Yes.

24 Q Okay. Did you ever meet with Ms. Beckman?

25 A No.

1 Q Okay.

2 MR. HILGENFELD: I think we've agreed he talked to one
3 person.

4 Q BY MS. YASSERI: So just so I'm clear, Dr. Pearce, you --
5 the only employee that you did speak with was Mr. Godden,
6 correct?

7 MR. HILGENFELD: Objection. Asked and answered several
8 times.

9 JUDGE SANDRON: Well, did you ask that question?

10 MR. HILGENFELD: She did.

11 MS. YASSERI: I'm just --

12 MR. HILGENFELD: And then he (sic) asked if he had
13 spoke --

14 MS. YASSERI: It's leading to another question, Your
15 Honor --

16 JUDGE SANDRON: Oh, all right.

17 MS. YASSERI: So it's not going to be big fight here.

18 A There -- there was -- as I had said, there was one other
19 person --

20 Q BY MS. YASSERI: Yes.

21 A -- the in-house counsel --

22 Q Yes.

23 A -- as part of that group call.

24 Q Okay. And Dr. Pearce, you relied solely on the documents
25 that were given to you by Respondent's Counsel, in drafting

1 your report, correct?

2 JUDGE SANDRON: Well --

3 MR. HILGENFELD: Objection. Mischaracterizes.

4 JUDGE SANDRON: I -- I think it's been -- I think it's
5 clear on the record already.

6 Q BY MS. YASSERI: Dr. Pearce, would you agree that the
7 opinion that you've rendered, earlier today and in your report,
8 is only as accurate as the information that was given to you by
9 Respondent's Counsel?

10 MR. HILGENFELD: Objection.

11 JUDGE SANDRON: What's that?

12 MR. HILGENFELD: Well --

13 JUDGE SANDRON: What's the argument?

14 MR. HILGENFELD: Objection. Relevance, and also
15 argumentative.

16 MS. YASSERI: It's not argumentative.

17 JUDGE SANDRON: I -- I don't think it's argumentative.

18 MR. HILGENFELD: Well, it's -- it is, because it's
19 argument. If she wants to attack the documents that were
20 provided, or the adequacy of it, that's one thing. But then to
21 say, the only thing that he -- his review is only as important
22 as what he relied on -- I mean, he's already testified that
23 half of his report is on his general understanding of SPVs,
24 that go way beyond the documents. So it's argument.

25 MS. YASSERI: I don't think it's argument at all, Your

1 Honor. I'm just asking him if he would agree with me, if the
2 opinion that he rendered today is accurate -- is as accurate as
3 the information given to him by Mr. Hilgenfeld.

4 JUDGE SANDRON: I'll allow it.

5 Q BY MS. YASSERI: Let me re-ask, Dr. Pearce. Would you
6 agree that the opinion that you rendered earlier today and, in
7 your report, is only as accurate as the information given to
8 you by Respondent's Counsel?

9 A If I may, that's really -- that report is a combination of
10 two sources. One, my expertise on SPVs and such things --
11 securitizations, and the specific situational content material
12 on Centerline, and Harvey Marine -- Harley Marine Financing,
13 and the other units. With regard to the latter group -- the
14 company group -- you're absolutely right. It was limited to
15 the documents provided.

16 Q Okay. I -- I'd like to direct your attention, Dr. Pearce,
17 to pages 16 and 17 of your report, sort of towards the middle
18 of the page. Your report, it -- it makes a reference to a list
19 of comparisons between Centerline and Harley Marine Financing
20 that appear to have been made in a position statement to the
21 National Labor Relations Board; do you see that?

22 A Yes, I do.

23 Q And this was a position statement that were -- that was
24 submitted by Respondent's Counsel, during the investigation of
25 these cases. You didn't conduct your own re -- independent

1 research regarding whether any of these comparisons listed in
2 your report were accurate?

3 A I did not.

4 Q You relied on the representations made by Respondent's
5 Counsel, in their position statement, correct?

6 A Yes.

7 Q In fact, you have no personal knowledge regarding
8 Centerline and Harley Marine Financing's operations, other than
9 your review of the documents listed in Appendix C, correct?

10 A Correct.

11 Q And you concluded on page 16 of your report, that the
12 above list of declared -- I want to specially refer you to that
13 page. I'm sorry, it's page 17.

14 A Yes. Oh, 17?

15 Q 17. Towards the middle of that last paragraph, it reads,
16 "The above list of declared and documented differences between
17 HMF and Centerline provides an extremely strong corroboration
18 of the independence of HMF as a legally designed, implemented,
19 and practiced SPV", correct?

20 A Yes.

21 Q Okay. What did you mean by strong corroboration?

22 A That list of points.

23 Q But -- but you didn't do your own independent research
24 regarding any of those listed items, correct?

25 A Correct. Do you want me to answer your question?

1 Q I think you just did, sir. I'll -- I'll -- I'll come
2 back. Now, Dr. Pearce, I believe earlier, when we were talking
3 about -- or when Mr. Hilgenfeld was asking you questions about
4 Appendix C, you also mentioned drafting an additional email,
5 asking for more information --

6 A Oh, any number of times.

7 Q Okay. What -- what type of additional information did you
8 ask for?

9 JUDGE SANDRON: If you can recall.

10 A The answer is that I don't recall, because they were not
11 big deals. They were points of clarification, et cetera.

12 Q BY MS. YASSERI: Okay.

13 A I don't -- by the way, this is important -- I don't bill
14 for emails because I figure, that's me needing to learn. And
15 so I don't keep a record of them.

16 Q Okay. Do you recall if you relied on any of the
17 information that was provided to you in those emails in
18 drafting your report?

19 A Of co -- I hope so. I -- I was asking for clarity. He
20 provided clarity. I acted on that.

21 Q But you don't recall what -- what, specifically, those
22 emails were about?

23 A No. Nor, with all due respect -- do I think they formed a
24 basis of the things I wrote.

25 JUDGE SANDRON: Now, these are emails between you and Mr.

1 Godden?

2 THE WITNESS: No, Mr. Hilgenfeld.

3 JUDGE SANDRON: Oh, I see. Okay. The counsel.

4 (Counsel confer)

5 Q BY MS. YASSERI: Mr. -- Dr. Pearce, do you recall
6 receiving any specific documents in response to those email
7 communications?

8 MR. HILGENFELD: I believe this has been testified a
9 number of occasions. He got documents periodically, through
10 time, and they all became Appendix 6 (sic) and these are all
11 the documents that he reviewed. We've gone over this, ad
12 nauseum.

13 JUDGE SANDRON: Yes, there's certainly no other documents.

14 MS. YASSERI: Okay.

15 A Are -- are there missing documents, no.

16 Q BY MS. YASSERI: No. Okay. Dr. Pearce, I'd like to
17 direct your attention to page --

18 (Counsel confer)

19 Q BY MS. YASSERI: I'm sorry -- I'm sorry, Dr. Pearce. I'd
20 like to direct your attention to page 16 of your report, to the
21 first bulleted item; do you see that?

22 A Yes.

23 Q That -- it states that HMF has no overlap of common
24 management with Centerline. I'd like to show you what's been
25 already admitted into evidence as GC Exhibit 231.

1 JUDGE SANDRON: And this a -- a new document.

2 THE WITNESS: Thank you.

3 MS. YASSERI: Your Honor, this has already been admitted.

4 JUDGE SANDRON: Oh, it has? Okay.

5 MS. YASSERI: Yes.

6 JUDGE SANDRON: You're just giving me a -- a courtesy
7 copy, at this point.

8 MS. YASSERI: Yes.

9 JUDGE SANDRON: Thank you.

10 (Counsel confer)

11 MR. HILGENFELD: I will object that this -- this GC 231.

12 JUDGE SANDRON: All right. They can --

13 MR. HILGENFELD: It does not -- it mischaracterizes the
14 evidence to say this is -- deals with management. These are
15 officers and directors.

16 JUDGE SANDRON: Well, you can ask him it, yes.

17 MS. YASSERI: I don't -- sorry -- I'm sorry, go ahead,
18 Your Honor.

19 JUDGE SANDRON: All right, have you ever seen this
20 document before?

21 THE WITNESS: Not the document, but the information, I
22 have.

23 Q BY MS. YASSERI: Okay. I'd like to direct your attention
24 to Respondent's Exhibit 308, to the second bullet point of your
25 report. You state HMF and Centerline do not have identical

1 officers and directors. And -- and then I want to turn your
2 attention back --

3 MR. HILGENFELD: I would object that it doesn't fully
4 state what bullet point 2 states. If you're going to state
5 that the document is what it says, I think you need to state
6 the whole thing for the record.

7 JUDGE SANDRON: Identical officers and directors, right?

8 MR. HILGENFELD: HMF has an independent director who would
9 become, for the company, HMF.

10 JUDGE SANDRON: But -- but you're asking him about the
11 officers and directors?

12 MS. YASSERI: Yes, I am, Your Honor. That's where that
13 area of inquiry is directed.

14 JUDGE SANDRON: All right, go ahead. Go ahead.

15 Q BY MS. YASSERI: What specific facts did you base that
16 conclusion on, Dr. Pearce, that HMF and Centerline do not have
17 identical officers and directors?

18 A Perhaps I worded it imprecisely, but what I meant was
19 they're -- they are not identical officers and directors,
20 that -- that they're overlapped, yes. Are they identical, no.
21 Remember, as we've talked that Harley Marine --

22 JUDGE SANDRON: All right, that's fine. We're going to
23 wait if counsel wants --

24 MR. HILGENFELD: I believe he was answering the question,
25 Your Honor.

1 JUDGE SANDRON: Well, he already answered. He -- he said
2 that it's accurate to the extent it's not identical, but he --
3 he's saying that doesn't mean it had overlapped. And if you
4 want to ask him some more questions about that on redirect,
5 that's fine.

6 Q BY MS. YASSERI: In fact, Dr. Pearce, I'm going to turn
7 your attention back to GC Exhibit 231. You see, Matt Godden is
8 listed as an officer of both Centerline and Harley Marine
9 Financing, correct?

10 A Well, I'm -- I'm just trying to follow along, where was
11 that?

12 Q Okay. I'm on --

13 A Oh, you mean the material you just handed out?

14 Q Yes, GC-231.

15 A Okay.

16 Q The first pages are directors and officers of Centerline.

17 A Yep.

18 Q You see Matt Godden is listed as an officer of Centerline,
19 correct?

20 A I do.

21 Q And then I want to direct your attention to page 5. Do
22 you see that Matt Godden is also listed as an officer of Harley
23 Marine Financing?

24 A Well, -- I do.

25 Q Same with Doug Houghton.

1 MR. HILGENFELD: I'm going to --

2 Q BY MS. YASSERI: Do you see on the first page of the
3 exhibit that Doug Houghton is an officer of Centerline?

4 JUDGE SANDRON: All right. Well, I think the --

5 MR. HILGENFELD: Yes, he -- he said there's overlap.

6 JUDGE SANDRON: Right, I -- I think the document speaks
7 for itself, and -- he -- he's saying that -- he was not saying
8 in his report that they did not have overlap. You -- you're
9 saying identical, in -- in the report.

10 Q BY MS. YASSERI: Were you aware -- I know you had said
11 that you had not seen this document before, Dr. Pearce, but
12 were you aware of the positions that these individuals held?

13 A Yes.

14 Q How -- how were you aware?

15 A In documents provided.

16 Q Which one, specifically?

17 A I -- I can't answer that without looking at the documents.
18 They are the -- the final pages of several of the documents
19 listed on that page.

20 Q Would looking at Appendix C, the list, help refresh your
21 recollection.

22 A No, looking -- yes, looking at those documents absolutely
23 would.

24 Q Would the -- just looking at the list would you --

25 A No.

1 Q No. Were you aware that John Saltsman was the vice
2 president of finance of Harvey Marine Financing?

3 A No.

4 Q Now going back to your report.

5 JUDGE SANDRON: Wait, what was that last question? Was he
6 aware --

7 MS. YASSERI: Was he aware if John Saltsman was the vice
8 president of finance --

9 JUDGE SANDRON: Oh, I see.

10 MS. YASSERI: -- at Harvey Marine Financing, at present.

11 Q BY MS. YASSERI: Going to go back to your report, Dr.
12 Pearce. Going back to your report, on page 16 of your report.

13 JUDGE SANDRON: That's -- that would be page 17 of the
14 document.

15 THE WITNESS: Thank you.

16 MS. YASSERI: Oh, no, I'm sorry, Your Honor. When I refer
17 to the pages, I've been referring to the Bates-labeled numbers.

18 JUDGE SANDRON: Right, so --

19 MS. YASSERI: I said page 16.

20 JUDGE SANDRON: Oh, that's the Bates number?

21 MS. YASSERI: Yeah, I'm sorry. I -- I've been referring
22 to the Bates labels.

23 JUDGE SANDRON: Oh, that's fine.

24 Q BY MS. YASSERI: You -- Dr. Pearce, I believe sort of on
25 the fifth bullet point down you make a reference to -- in your

1 report, states "HMF has a unique federal tax identification
2 number, files its own tax returns, and has its own bank account
3 books, records, and financial records." Do you see that?

4 A I do.

5 Q In preparing your report, did you see any tax returns that
6 were filed by Harley Marine Financing?

7 A No.

8 Q Are you aware that Harley Marine Financing does not file
9 its own federal and state taxes?

10 MR. HILGENFELD: Objection to the term, "own".
11 Consolidated return is filing taxes.

12 MS. YASSERI: Okay, let me rephrase, Your Honor.

13 Q BY MS. YASSERI: Are you aware that HMF does not
14 individually file its -- its own federal and state tax return?

15 A No.

16 JUDGE SANDRON: So -- so were you basing that conclusion
17 on what information you were provided?

18 THE WITNESS: To the NLRB's officer.

19 Q BY MS. YASSERI: And that would be the position statement
20 that was submitted by Mr. Hilgenfeld?

21 A Yeah -- no, no. Well, it was provided -- provided, yes,
22 by him. Yes.

23 Q And just to be clear, that was item 18 in Appendix C of
24 your report?

25 A No, I don't believe so.

1 Q Well, item 18 --

2 A No.

3 Q -- in Appendix C of your report refers to a position
4 statement.

5 A Was it a letter addressed to --

6 Q I don't know.

7 A Oh.

8 Q I'm sorry.

9 A If you can't answer it then I can't either.

10 Q I'm sorry, doctor. I -- I should -- I apologize, I think
11 sometimes it's common as lawyers to just take certain things
12 for granted. But it -- oftentimes position statements look
13 like letters. They -- they're sort of formatted like letters,
14 so that's probably why you may be thinking of it as a letter.

15 A Yes, that's what it is. Number 18. Thank you.

16 Q Now, going back to your report, Dr. Pearce. The next
17 bullet point down, it reads, "Any agreement between HMF and
18 Centerline is conducted at arm's length and fair market value
19 is paid." Do you see that?

20 A I do.

21 Q What -- what did you mean by arm's length?

22 A I have an answer. I did not create the document from
23 which it was taken. These all came from that number 18 report,
24 and I did not pursue separate verification of their accuracy.
25 Is that helpful?

1 Q Yes, understood. I guess, let me just ask you, what --
2 what is your general understanding of the term arm's length
3 with respect to transactions? Can you explain to us what
4 that -- your understanding of what that is?

5 A Sure. An arm's length transaction means an -- an open
6 transaction that is reflective of management standard. So
7 there would be little reason to question the fairness of the
8 agreement.

9 Q And -- and when you -- when you mention questioning
10 fairness, do -- do you also look at who was involved with
11 respect to the transaction?

12 A No.

13 Q Dr. Pearce, I'm going to be showing you what's been
14 already admitted into evidence as General -- I'm sorry, as
15 Respondent Exhibit 43, it's an asset purchase and sale
16 agreement.

17 A Thank you.

18 Q I'll -- I'll give you a second to flip through the multi-
19 page document.

20 JUDGE SANDRON: Well, while he's doing that -- this might
21 be a question for Mr. Hilgenfeld. Do you see on some of these
22 documents there's -- I asked that earlier of the witness, the
23 witness didn't know -- execution version, do you know what that
24 refers --

25 MR. HILGENFELD: I do, Your Honor. A lot of times in

1 these transactional documents there will be hundreds of
2 documents going back and forth.

3 JUDGE SANDRON: Okay.

4 MR. HILGENFELD: So when you get to the final document --

5 JUDGE SANDRON: Oh, I see.

6 MR. HILGENFELD: -- the execution versus the execution --

7 JUDGE SANDRON: Oh, I see, that's the final --

8 MR. HILGENFELD: Correct.

9 JUDGE SANDRON: -- version. Okay, thank you. Just to --
10 just to -- making sure it's on the record.

11 MR. HILGENFELD: Yes.

12 Q BY MS. YASSERI: Dr. Pearce, have you seen this document
13 before, the asset sale and purchase agreement referenced in
14 Respondent Exhibit 43?

15 A Yes.

16 Q How did you receive this document, doctor?

17 A As an online -- as an email attachment.

18 Q Well, why wasn't this referenced in attachments --
19 Appendix C of your report?

20 A Because the list that was provided way before -- months
21 before this document and was not properly amended, I guess.

22 Q Okay. Let me just take a step back. So when you say the
23 list was provided, are you talking about Appendix C of your
24 report?

25 A Yes.

1 Q So you didn't -- you didn't draft that list of documents?

2 A I did not.

3 Q Okay. Who gave you that list of documents?

4 A Mr. Hilgenfeld.

5 Q Did you ask to see this asset sale and purchase agreement,
6 or well, did Mr. -- Mr. Hilgenfeld provide it to you without
7 your request?

8 A He provided it in response to a question I -- yes.

9 Q And what question did you have that prompted this
10 submission of this document?

11 A As you've pointed out, I was not knowledgeable about many
12 of the specific details of transactions. And my question had
13 to do with how compensation to various units of Centerline was
14 done. And he indicated that that had to do with the asset
15 value of the assets sold to the SPV, and he then provided this
16 document without direction to indicate what those assets were.

17 JUDGE SANDRON: All right. So in addition to the
18 documents listed in Appendix C, you also, prior to today,
19 reviewed Respondent's Exhibit 43?

20 THE WITNESS: Right.

21 JUDGE SANDRON: I think we've got about 15 minutes, so you
22 can figure out an -- an appropriate point at which to break.

23 MS. YASSERI: It may be a good time to stop, Your Honor,
24 because I -- I'm going to get into another big area. I can go
25 on, but I -- yeah, I --

1 JUDGE SANDRON: It's all right. Well --

2 MS. YASSERI: -- this might be a -- I'm looking at my
3 notes here, but it might be a good breaking point here.

4 JUDGE SANDRON: All right. This -- this might be an
5 appropriate point. And we -- we know that the witness will
6 need to return in the morning in any event. So okay, is there
7 anything before we then adjourn for the evening? Anything?

8 MS. YASSERI: Not from the GC.

9 JUDGE SANDRON: Counsel -- Mr. Hilgenfeld?

10 MR. HILGENFELD: Nothing, Your Honor.

11 THE WITNESS: Can I ask you a question? It's a procedural
12 thing.

13 JUDGE SANDRON: No, I think you need to ask --

14 MR. HILGENFELD: We'll talk to you.

15 JUDGE SANDRON: Yeah, I think Mr. Hilgenfeld will -- he'll
16 explain to you. That's your counselor, so we will resume
17 tomorrow at the same time.

18 So -- so Dr. Pearce we'll see you again in the morning
19 to --

20 THE WITNESS: Yes, sir. I look forward to it.

21 JUDGE SANDRON: Okay. Have a good evening.

22 THE WITNESS: Thank you. You too.

23 JUDGE SANDRON: Okay. That goes to -- for everybody.
24 We're off the record.

25 **(Whereupon, the hearing in the above-entitled matter was**

1 recessed at 4:46 p.m. until Friday, January 27, 2023 at 9:00
2 a.m.)

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C E R T I F I C A T I O N

This is to certify that the attached proceedings, held before the National Labor Relations Board (NLRB), Region 21, Case Numbers 19-CA-273208, 19-CA-273220, 19-CA-273226, 19-CA-273928, 19-CA-273985, 19-CA-273771, 19-CB-273986, 21-CA-273926, Leo Marine Services, Inc., Olympic Tug & Barge, Inc., and Centerline Logistics Corporation and Olympic Tug & Barge, Inc. and Centerline Logistics Corporation and Leo Marine Services, Inc. and Centerline Logistics Corporation, Westoil Marine Services, Inc., and Harley Marine Financing, LLC, held at the National Labor Relations Board, Region 21, National Labor Relations Board, Region 21, 312 North Spring Street, Tenth Floor, Los Angeles, California 90012, on January 26, 2023, at 9:04 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.



JACQUELINE DENLINGER

Official Reporter



OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:

Leo Marine Services, Inc., Case Nos. 19-CA-273208
Olympic Tug & Barge, Inc.,
and Centerline Logistics
Corporation,

and

Olympic Tug & Barge, Inc. 19-CA-273220

and

Centerline Logistics 19-CA-273226
Corporation, 19-CA-273928

and

Leo Marine Services, Inc. 19-CA-273985

and

Centerline Logistics 19-CA-273771
Corporation, Westoil Marine
Services, Inc., and Harley
Marine Financing, LLC,

and

Seafarers International Union, 19-CB-273986

and

Inlandboatmen's Union of the
Pacific,

and



Centerline Logistics
Corporation, Leo Marine
Services, Inc., and Olympic
Tug & Barge, Inc.

21-CA-273926

and

International Organization of
Masters, Mates & Pilots, AFL-
CIO.

Place: Los Angeles, California

Dates: January 27, 2023

Pages: 3048 through 3189

Volume:

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Phoenix, AZ 85020
(602) 263-0885



UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 21

In the Matter of:

LEO MARINE SERVICES, INC.,
 OLYMPIC TUG & BARGE, INC.,
 AND CENTERLINE LOGISTICS
 CORPORATION

Case Nos. 19-CA-273208

and

OLYMPIC TUG & BARGE, INC.

19-CA-273220

and

CENTERLINE LOGISTICS
 CORPORATION

19-CA-273226

19-CA-273928

and

LEO MARINE SERVICES, INC.

19-CA-273985

and

CENTERLINE LOGISTICS
 CORPORATION,
 WESTOIL MARINE SERVICES, INC.,
 AND
 HARLEY MARINE FINANCING, LLC

19-CA-273771

and

SEAFARERS INTERNATIONAL UNION

19-CB-273986

and

INLANDBOATMEN'S UNION OF THE
 PACIFIC

and



CENTERLINE LOGISTICS
CORPORATION, LEO MARINE
SERVICES, INC., AND OLYMPIC
TUG & BARGE, INC.

21-CA-273926

and

INTERNATIONAL ORGANIZATION OF
MASTERS, MATES & PILOTS, AFL-
CIO

The above-entitled matter came on for hearing, pursuant to notice, before **IRA SANDRON**, Administrative Law Judge, at the National Labor Relations Board, Region 21, 312 North Spring Street, Tenth Floor, Los Angeles, California 90012, on **Friday, January 27, 2023, 9:18 a.m.**

A P P E A R A N C E S

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E X H I B I T SEXHIBITIDENTIFIEDIN EVIDENCE**General Counsel:**

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1 P R O C E E D I N G S

2 JUDGE SANDRON: Back on the record. I understand that the
3 General Counsel wished to -- well, I -- first, I'll confirm
4 that General Counsel Exhibits 126, 127, 128, and 189 have been
5 received.

6 **(General Counsel Exhibit Numbers 126, 127, 128, 189 Received**
7 **into Evidence)**

8 JUDGE SANDRON: I understand, Ms. Yasseri, that you wish
9 to ask the witness the question about General Counsel Exhibit
10 189?

11 MS. YASSERI: Yes, Your Honor.

12 May I approach?

13 JUDGE SANDRON: Yes.

14 THE WITNESS: Thank you.

15 RESUMED CROSS-EXAMINATION

16 Q BY MS. YASSERI: Dr. Pearce, I'm showing you what's been
17 admitted into evidence as GC Exhibit 189. It's a position
18 statement from Harley Marine Financing dated January 10th,
19 2022. Is this the position statement that you recall reviewing
20 and that's referenced in item number 18 on Appendix C of your
21 report?

22 A I want one minute before I answer, yes.

23 Q Sure, take your time.

24 A This document -- I wonder if this is much, much longer
25 than the one I reviewed.

1 Q Okay.

2 A And I just -- if I may?

3 Q Take your time.

4 A So the first 30 pages are what I had. You called a
5 letter.

6 Q Okay.

7 A There -- starting with page 31 is a document that I also
8 received and also studied. And I -- I don't believe it came at
9 the same time as the letter.

10 Q Understood. Okay. Thank you. Thank you very much.

11 JUDGE SANDRON: And I understand that, Ms. Yasseri, you
12 wish to offer a document that you've marked as General
13 Counsel's Exhibit 238, which you have discussed with opposing
14 counsel?

15 MS. YASSERI: Yes, Your Honor. At this time the parties
16 have stipulated to the admission of GC Exhibit 238. It's an
17 invoice issued by Harley Marine Financing. It's invoice number
18 35017. It is referenced as item number 13 in Dr. Pearce's
19 report in Appendix C. At this time, we move for the admission
20 of GC Exhibit 238.

21 JUDGE SANDRON: Any objection?

22 MR. HILGENFELD: No objection.

23 JUDGE SANDRON: The document is received.

24 **(General Counsel Exhibit Number 238 Received into Evidence)**

25 Q BY MS. YASSERI: Dr. Pearce, my apologies. Before I

1 started asking you questions, I -- I wanted to say good morning
2 and --

3 A Good morning.

4 Q -- thank you for coming back. I'd like to direct your
5 attention, Dr. Pearce, to Respondent's Exhibit 309. You have
6 that in front of you, 309. It's the -- it's like a table of
7 your prior -- entitled Prior Expert Witness Testimony. It's
8 a -- it's a single page document.

9 JUDGE SANDRON: You can take your time to locate it.

10 A Yes, I have it.

11 Q BY MS. YASSERI: Okay. Okay. Okay. And if I could just
12 direct your attention to the first case that's referenced
13 there, Kendra Windrix do you recall which court that case was
14 venued in?

15 A I do not -- I do not remember anything about that case.

16 Q Okay. Okay. And then do you recall if you represented a
17 corporation in that case?

18 A I don't remember anything about that case.

19 Q Okay. Okay.

20 A I --

21 Q What --

22 A If -- if I had -- I keep notes and so I could have
23 recovered it. I did not.

24 Q I understand. Now, what about the second case that's
25 referenced there that was venued in the United States District

1 Court for the Southern District of West Virginia?

2 A Yes.

3 Q Okay. Which -- which party did you appear on behalf of or
4 as an expert in?

5 A The defendant was the CEO of the corporation Freedom
6 Industries.

7 Q Okay. And what was that case about? Do you recall?

8 A I do. It was about a chemical spill.

9 Q And what were you retained to provide -- what subject were
10 you retained to provide your expert opinion on?

11 A Mr. Sutherland (phonetic throughout), the defendant was
12 charged for liability in the spill. His defense, supported by
13 my documentation, was that he had been on the job three days,
14 had not been at -- he'd not been in the state for three days.
15 He -- he had no apparent culpable -- culpability. He'd just
16 been hired by the firm as an employee. So there was no -- I
17 argued there was no reasonable way to link him because it had
18 nothing to do with his behavior or any other element of the
19 case. But it was a huge case.

20 Q And I'm sorry, just to clarify. So you were hired to
21 opine on the defendant's behavior?

22 A No. It had to do with as CEO president, what were his
23 responsibilities? And what was reasonable to assume that he
24 should have known and should have done, so.

25 Q Understood. And did you actually end up testifying as an



1 expert in that case?

2 A I did not.

3 Q You did not. Okay. And that case didn't involve a
4 special purpose vehicle, correct?

5 A I have never been involved in a case that directly dealt
6 with a special purpose vehicle.

7 Q Understood. Okay. What about indirectly?

8 A No, not even indirectly.

9 Q Understood. Now, going to the third case referenced on --
10 on Respondent's Exhibit 309, Roberts v. Best Buy Company.
11 Which party did you -- were you retained to provide an expert
12 opinion.

13 A I don't recall that case.

14 Q You don't recall. Do you recall where that case was
15 venued?

16 A I do not.

17 Q No. Do you recall what that case was about, just
18 generally?

19 A I do not.

20 Q No. Okay.

21 JUDGE SANDRON: You don't recall anything about that case?

22 THE WITNESS: No. Nothing.

23 JUDGE SANDRON: All right. I think that --

24 MS. YASSERI: Okay.

25 JUDGE SANDRON: -- covers it all.

1 Q BY MS. YASSERI: All right. What about the next case
2 that's referenced, Asia United Enterprises Limited? Do you
3 recall?

4 A Yes. Yes, I do.

5 Q Okay. Where was that case venued?

6 A I don't know.

7 Q Okay. And who were you represented to opine an expert
8 opinion on? Whose behalf?

9 A Extended Stay of America.

10 Q And if you can tell us what that case was about?

11 A The charge was brought by a number of ex-employees, all of
12 whom were managers for Extended Stay. They charged that they
13 were required to perform duties far beyond their job
14 description. Specifically, that they were -- because of their
15 budgets they were understaffed. Because they were understaffed
16 the managers had to help do things that a cleaning crew would
17 do, room preparation crew would do, et cetera.

18 Q Okay. And you didn't end up actually testifying with
19 respect to that case, either?

20 A No, it was settled.

21 Q It was settled. Okay. And next on the list is -- I'm
22 sorry, when I asked you about Asia United Enterprises Limited,
23 that's the one -- I'm sorry, did you say you don't recall
24 anything about that?

25 A Correct.

1 Q Thank you. Now, lastly, with respect to a case entitled
2 Tonia Virnelson v. Johnson Matthey, Inc.

3 A Yes.

4 Q What was that case about?

5 A Johnson Matthey is a large international chemical firm.
6 The case was brought by the widow of a man who was killed at
7 the plant. He was in a -- it was a very specialized job. It
8 was OSHA evaluated. And there was a long history of no
9 problems in anyone performing this job.

10 I'm sure you don't care about the circumstances, but the
11 bottom line is he fell while performing his job onto a concrete
12 floor and was -- and died as a result of his injuries. But the
13 charge was not local. The charge which for the corporate
14 against the corporate CEO who resided in Germany and so I was
15 asked about the chain of command and responsibility in that
16 large multinational firm. So somebody was probably responsible
17 in part for the death of this employee, but how many people
18 vertically can we pull into the charge.

19 Q And were you retained by Johnson Matthey, Inc., in that
20 case?

21 A I was.

22 Q And did you actually end up testifying?

23 A I did not.

24 Q Okay. Thank you.

25 A The cases where I did not testify because they were



1 settled.

2 Q Just -- just to clarify, Dr. Pearce, did you -- have you
3 to date have you -- well, prior to this hearing, have you ever
4 provided expert testimony at a hearing or in a court
5 proceeding?

6 A Yes.

7 Q Okay. Which -- which case was that? Is it one of the --

8 A It's one of the ones I can't remember.

9 Q One of the six listed in Respondent's Exhibit?

10 A Oh, wait a minute. You'll be able to tell me. It was
11 here in California.

12 Q Yeah, it's unclear.

13 A Did those code numbers mean anything to you?

14 Q Yeah, usually I could tell from -- but not from this
15 document, it's unclear.

16 A Okay.

17 Q But, okay.

18 A Sorry.

19 Q Thank you.

20 JUDGE SANDRON: Do you remember the location of any --
21 where it was in California?

22 THE WITNESS: I'm sorry, I don't.

23 JUDGE SANDRON: Now, do you remember whether it was a
24 state court or a federal court?

25 THE WITNESS: I don't. We're talking about a case that's

1 well more than 30 years old.

2 JUDGE SANDRON: Oh, I see.

3 THE WITNESS: So.

4 JUDGE SANDRON: Okay.

5 Q BY MS. YASSERI: Dr. Pearce, if I could direct your
6 attention to your report, Respondent's Exhibit 308.

7 A Yes.

8 Q And specifically to page 15. And again, I'm referring to
9 the Bates label pages on the lower right hand corner. I'm
10 sorry. That would be page 16. Page 16.

11 A Yes.

12 Q To the last bullet point on that page there's a reference
13 made to, "human services are made available to HMF by its
14 contracts with employers." Do you see that?

15 A I do.

16 Q Okay. What contracts were you referring to?

17 A Most specifically, the manager contract.

18 Q Was that one of the documents that you had included in
19 Appendix C?

20 A Yes, I'm sure.

21 Q Can you point me to where that would be in Appendix C?

22 A Number 10, the management agreement.

23 Q Other than the management agreement, did you review any
24 other contracts?

25 A No, I did not.

1 Q When you said, "by its contract with employers," were you
2 talking about specific employers or their specific employers?

3 A I was talking about Centerline, but I didn't want to
4 presume that Centerline was the only organization with whom
5 Harley Marine Financing did business.

6 Q Okay.

7 A As a matter of fact, I think there's substantial evidence
8 that there were others.

9 JUDGE SANDRON: What does the management agreement say
10 about that subject? Because you say you used the management
11 agreement to come to this conclusion.

12 THE WITNESS: The management agreement, supported by other
13 documents, for example, the LLC document, specifies
14 responsibilities of the manager.

15 JUDGE SANDRON: Right.

16 THE WITNESS: And those are -- those responsibilities are
17 far beyond the capabilities of any person. It's meant to be
18 a -- a group activity --

19 JUDGE SANDRON: Right.

20 THE WITNESS: -- if you will. And so those people would
21 have participated in the fulfillment of the manager contract --
22 the manager agreement.

23 JUDGE SANDRON: So if there was anybody else besides
24 Centerline, who -- who would basically hire other employers.
25 If it's -- would Centerline seek other employers, or would --

1 THE WITNESS: It's important for me to say it's the
2 manager who would do it.

3 JUDGE SANDRON: Oh, Centerline.

4 THE WITNESS: The manager who was employed at Centerline.

5 JUDGE SANDRON: Oh, I see. The Centerline manager?

6 THE WITNESS: No, sir. That's -- I'm not trying to be
7 picky.

8 JUDGE SANDRON: No, I'd like to get you to clarify.

9 THE WITNESS: The manager is not a person. The manager --

10 JUDGE SANDRON: Right.

11 THE WITNESS: -- the manager -- okay. So who is it that
12 runs -- makes major decisions for --

13 JUDGE SANDRON: Right.

14 THE WITNESS: -- Harley Davids -- Harley David -- Harley
15 Marine Financing? And the answer is, it's the manager, and
16 that manager works at Centerline.

17 JUDGE SANDRON: I see.

18 THE WITNESS: And has the --

19 JUDGE SANDRON: I see.

20 THE WITNESS: -- ability to draw a number of people into
21 the process.

22 JUDGE SANDRON: Oh, I see. So it'd be up to the manager
23 to do that?

24 THE WITNESS: That's correct.

25 JUDGE SANDRON: Oh, I see. Thank you. I think that --

1 that clarifies it.

2 MS. YASSERI: I'm sorry, Your Honor. May we go off record
3 for just a few minutes? We've encountered an issue with
4 photocopies. My apologies.

5 JUDGE SANDRON: Okay. Off the record.

6 (Off the record at 9:38 a.m.)

7 JUDGE SANDRON: Back on the record.

8 **RESUMED CROSS-EXAMINATION**

9 Q BY MS. YASSERI: Dr. Pearce, I'd like to direct your
10 attention to page 17 of your report towards the top, to the
11 second bulleted item that states HMF and Centerline do not
12 share facilities.

13 A Yes.

14 Q What specific fact did you base this conclusion on?

15 A I think that it can be argued that HMF has no facilities.

16 Q Okay.

17 A And so the idea of sharing them is kind of a moot
18 question.

19 Q What -- what are the underlying facts in support of that
20 position?

21 A The documents that created HMF all allude to the fact
22 that -- that there are no facilities.

23 Q I'd like to direct your attention to two exhibits that
24 have already been admitted into evidence. The first one is GC
25 Exhibit 96. It's Centerline's 2021 report filing with the

1 Washington Secretary of State. Have you seen this document
2 before?

3 A No.

4 Q This wasn't one of the documents that Mr. Hilgenfeld had
5 provided to you?

6 A No.

7 Q Were you -- are you aware that the principal office for
8 Centerline Logistics Corporation is at 910 Southwest Spokane
9 Street in Seattle, Washington?

10 A No, I'm not.

11 Q I'd like to direct your attention to GC Exhibit 98, which
12 is Harley Marine Financing LLC's 2021 report filing with the
13 Washington Secretary of State. Have you seen this document
14 before?

15 A Not to recollect -- my recollection.

16 Q And this document wasn't provided to you by Mr.
17 Hilgenfeld?

18 A No.

19 Q Were you aware that Harley Marine Financing, LLC had a
20 principal office address at 1910 Southwest Spokane Street in
21 Seattle, Washington.

22 A No.

23 MR. HILGENFELD: Objection. Mischaracterizes the
24 evidence.

25 MS. YASSERI: The document stated it here --



1 JUDGE SANDRON: Well --

2 MR. HILGENFELD: You can ask about the document, but the
3 principal place of business is found in the formation
4 documents. Mr. Godden testified regarding this document, and
5 the limitation of this document. There was an administerial
6 error. By stating otherwise, it is misstating the evidence.

7 MS. YASSERI: Can I -- I'll follow up?

8 JUDGE SANDRON: Yes, go ahead.

9 Q BY MS. YASSERI: Dr. Pearce, were you aware that Harley
10 Marine Financing registered with the secretary of state -- with
11 the State of Washington that its principal office address was
12 at 1910 Southwest Spokane Street?

13 A No, I'm not.

14 Q Oh, I'm sorry. I just wanted to go back; I misspoke.
15 We -- were you aware that Harley Marine Financing reg --
16 registered its business address with the Washington Secretary
17 of State as 910 Southwest Spokane Street in Seattle,
18 Washington?

19 A No, I am not.

20 Q Going back, Dr. Pearce, to your report. With respect to
21 the bulleted item at the top that reads "HMF and Centerline do
22 not have centralized" label -- "labor relations", do you see
23 that?

24 A I -- I do.

25 Q What specific facts did you base this conclusion on?



1 A Harley Marine Finance has no employees. As a consequence
2 it does not -- is not involved in Centerline's labor relations.

3 Q Would you agree that Harley Marine Financing has
4 Centerline employees acting on its behalf to perform its work?

5 A Acting on behalf of the manager, yes.

6 Q Okay. Now, Dr. Pearce, would you agree with me that the
7 opinion you shared with us about the independence of Harley
8 Marine Financing is as accurate as the facts that you based
9 that opinion on?

10 JUDGE SANDRON: As -- as the facts -- or you mean the
11 document?

12 Q BY MS. YASSERI: As the facts that you based that opinion
13 on?

14 MR. HILGENFELD: I'm going to object as to vague.

15 JUDGE SANDRON: That's what?

16 MR. HILGENFELD: Vague. There's -- the --

17 JUDGE SANDRON: All right.

18 MR. HILGENFELD: --facts includes a lot of documents, the
19 facts include a lot of declarations, it includes a lot of
20 things. Obviously, if no -- if none of that is true, that
21 changes the opinion, but I don't think that's what the question
22 is.

23 JUDGE SANDRON: Well, I think he testified that he based
24 his conclusions on the documents that are listed in the
25 appendix.

1 MS. YASSERI: Okay. All right. I'll move on, Your Honor.

2 JUDGE SANDRON: I believe that -- that was the extent of
3 what he relied on, correct, Mr. Hilgenfeld? Based on his
4 testimony?

5 MR. HILGENFELD: Two parts. The report was based upon the
6 documented evidence he had along with the phone call that he
7 had with Mr. Godden. After the report, he reviewed the asset
8 agreement, which he testified about yesterday.

9 JUDGE SANDRON: I see, all right. So I think that says it
10 all basically, that it's correct.

11 THE WITNESS: Could I answer your question?

12 JUDGE SANDRON: Well, I think -- why don't you -- Counsel,
13 if she wants an answer, will ask it again.

14 THE WITNESS: Thank you.

15 MS. YASSERI: I'll -- I'll move on, Your Honor. I'll move
16 on.

17 Q BY MS. YASSERI: Now, Dr. Pearce, I know you -- you
18 testified yesterday about a conversation you had with Mr.
19 Godden when you were sort of towards the early stages of your
20 retention in this matter. And I believe you testified that was
21 in July of 2022?

22 A That was the -- what was July of 2022?

23 Q Your phone call with Mr. Godden?

24 A No, it was after that. I was retained July 15th of 2022.
25 And so assuming two, three weeks later.

1 Q Okay. And can you just tell us what specifically did Mr.
2 Godden tell you during that phone call?

3 A He gave a brief overview of the history of the company,
4 helped me to understand the -- the scope of its operations
5 including the number of subsidiaries that were involved, and
6 then most of the time we spent in -- offering his assistance in
7 any way that was possible. It was a very congenial, general
8 discussion.

9 Q Do you recall anything -- any specific statements he made
10 or anyone else made in the meeting about the need to hire you
11 as an expert?

12 A No.

13 Q How -- I'm sorry, how long did this phone conversation
14 last?

15 A My recollection, it lasted less than an hour, if that's
16 good enough.

17 JUDGE SANDRON: Do you remember if anything was said about
18 labor relations in any context?

19 THE WITNESS: No sir, nothing.

20 Q BY MS. YASSERI: Do you recall if anything was said about
21 the National Labor Relations Board?

22 A I do remember that nothing was said.

23 Q Dr. Pearce, I'd like to talk a little bit, now, about the
24 bid process. I know your report covered that a little bit.
25 Let me sort of direct you to the section. I believe it's on

1 page 20 of your report, again I'm referring to the Bates-
2 labeled page on the lower right-hand corner.

3 JUDGE SANDRON: Page 28?

4 MS. YASSERI: Page 20.

5 JUDGE SANDRON: 20.

6 MS. YASSERI: Yes.

7 Q BY MS. YASSERI: Dr. Pearce, were you aware that Matthew
8 Godden was the decision maker in determining who would be
9 awarded the work that was the subject of the bidding process?

10 A Absolutely.

11 Q Okay. How did you become aware of that?

12 A Well, I know it's his responsibility under the management
13 agreement, under the LLC agreement, under his assignment as
14 manager that he handles -- oversees decision making for Harley
15 Marine Financing. So this would have been one of many such
16 things he would do.

17 Q Were you aware that Mr. Godden was also the president and
18 CEO of every company that submitted a bid?

19 A Yes.

20 Q You were, okay. And with respect to sort of a blind-
21 bidding process that you talk about in your repor -- report,
22 that doesn't usually include multiple bidding rounds, correct?

23 A I don't believe that could be said. It could -- it could
24 well include multiple bidding rounds as a way of narrowing the
25 pool of applicants. This is a small group, so two rounds seems

1 like a reasonable number.

2 Q Okay. But your report sort of references that infighting
3 among competing affiliates can be minimized when the final
4 selection is made after a minimum number of bidding rounds,
5 right?

6 A Oh, yes. Yes. As compared to the alternative and the
7 alternative is that applicants apply and they are -- and they
8 are considered individually, like applicants, in that they
9 don't know what one another has said, what one another has bid,
10 that -- and -- and -- and the concern always is about -- not
11 always -- the concern is about fairness, and did somebody have
12 an advantage by being first or by going last? Did somebody
13 have an advantage by seeing what others had said or done? And
14 that -- that kind of concern is reduced by a blind-bidding
15 process.

16 Q Okay. And just for clarity of the record, can you sort of
17 define a blind-bidding process for us?

18 A Well, yes. A blind-bidding process can take several
19 forms. One of those forms, the one used in this case, is that
20 the bids were prepared by the individual units and they were
21 opened at the same time and compared at the same time. They
22 were compared both against Westoil's requirement for a dramatic
23 reduction in the cost of the contract and, by comparison, one
24 unit against another.

25 Q Did you actually review any of the -- any of the bid

1 submission letters or the invitation to tender that went out to
2 any of the Centerline subsidiaries? Did you --

3 A All -- all of that information was prepared well prior to
4 my being hired.

5 Q Okay. And you -- you never saw any of those documents --

6 A No, ma'am.

7 Q -- as part of your retention in this case?

8 A I did not.

9 Q Okay. Do you know -- are you aware of the factors that
10 went into the blind-bidding process? The factors of
11 consideration?

12 A I am not.

13 Q Did you speak to any employees regarding what was done
14 with respect to the blind-bidding process?

15 A I did not.

16 Q To your knowledge, were blind-bidding processes -- was the
17 blind-bidding process based on pricing?

18 A Was pricing an element? Yes, ma'am.

19 Q Thank you. Was pricing an element?

20 A Yes.

21 Q How did you -- how do you know that?

22 A Because it was -- pricing was prespecified by the
23 shipper -- by Westover (sic throughout) as a critical
24 determinant of whether or not they would be interested in a
25 contract.

1 Q Other than pricing, Dr. Pearce, were you aware of any
2 other factors that were considered?

3 A Given the wealth of material that I've read, I have formed
4 a lot of opinions about things but you seem to be asking for my
5 certain knowledge and I did not have certain knowledge about
6 other factors.

7 Q Okay, thank you. So the reference to the blind-bidding
8 process in your report, that was purely based on what you were
9 told about the process?

10 A It was.

11 Q Yeah.

12 A And what I read about the process.

13 Q Okay. And with respect to being told about that process,
14 was -- was that from Mr. Hilgenfeld?

15 A It -- Mr. Hilgenfeld was -- certainly provided
16 information. As a matter of fact, I believe he introduced the
17 issue and the paperwork came second and the document from
18 Beckman came third. So it's spread out over some time.

19 Q What -- what did Mr. Higgenfeld -- Higgen -- excuse me,
20 Hilgenfeld tell you regarding the bidding issue?

21 A He described it generally -- the elements generally. I
22 can do that, if that's what you'd like.

23 Q What do you recall him specifically telling you?

24 A That a new contract was going to be offered and that
25 Westover had initially declined to meet the pricing

1 requirement, although they remained active in the process. And
2 so the question came up as to whether or not any subsidiary of
3 Centerline, if you will, wanted to bid on that contract.

4 Q Okay.

5 A So it included Westover, but it included other
6 subsidiaries as well -- who self-selected participation. They
7 were all invited; whether they participated or not as they
8 would. And the -- the decision was to be based on a comparison
9 of the applicants by Mr. Godden's office.

10 JUDGE SANDRON: So -- so -- so you mean Westoil?

11 THE WITNESS: I do mean Westoil --

12 MS. YASSERI: Yeah.

13 THE WITNESS: -- thank you. It's the Westoil contract.
14 Thank you.

15 Q BY MS. YASSERI: And Dr. Pearce, what do you mean
16 initially declined?

17 A They had -- I was told that they had indicated that they
18 would not be able to continue to extend -- to extend the
19 contract -- which they were in the unique position to do, I
20 think -- at the new lowered rate that Westoil was requiring.

21 Q When you say you were told, was that by Mr. Hilgenfeld?

22 A It was, later to be confirmed by documentation including a
23 declaration by Mr. Houghton.

24 JUDGE SANDRON: When you say Westoil was requiring --

25 THE WITNESS: Yes?

1 JUDGE SANDRON: -- which company was that?

2 THE WITNESS: Which company? They were -- so my
3 understanding is that a lot of this case deals with the -- with
4 the new subsidiary of Harley Marine Financing signing a
5 contract with Westover, and that became available because the
6 original Westover contract was to end. So the question was
7 when it ended, who would become the new provider? Westoil had
8 the opportunity --

9 JUDGE SANDRON: Oh, I see.

10 THE WITNESS: -- my understanding was, to be that
11 provider, and they initially declined, saying we cannot reduce
12 our pricing by 30 percent and have this make economic sense.
13 At which point, rather than not participate in the Westoil
14 contract going forward, Harley Marine Financing chose to
15 conduct this bid process.

16 JUDGE SANDRON: All right. Thank you.

17 Q BY MS. YASSERI: Doc -- Dr. Pearce, so just to be clear,
18 Westoil declined to meet the pricing requirement before the bid
19 process was initiated, to your understanding?

20 A I'd like to say it -- Westoil declined to participate in
21 a -- in pursuing a new contract unless the price reduction of
22 at least 30 percent was part of the new contract.

23 Q Understood. Okay, Dr. Pearce, I'd like to now direct your
24 attention to Appendix B of your report, which is on page 30 of
25 Respondent's Exhibit 308. It's where you talk about the

1 concept of separateness.

2 A Thank you.

3 Q Okay. You reference that "an originator and SPV must
4 structure the transaction to reduce the threat of substance of
5 consolidation", and further state that "each transaction should
6 be checked for a number of factors, the first being compliance
7 with SPV formalities." What do you mean by SPV formalities?
8 What are those?

9 A The SPV was created given certain conditions. Those
10 conditions are not -- they are not a set of prescribed
11 conditions, they're a set of reasonable, likely conditions. So
12 I didn't want to say that they were certainty in these
13 guarantees. And -- and so that's what I meant by -- I'm trying
14 to find the word that I used, but.

15 Q Yeah, my question was regarding SPV formalities.

16 A Formalities, thank you. That's what I meant by
17 formalities.

18 Q And just -- just for clarity, what exactly -- are there
19 specific items in the governing documents to your knowledge
20 that define what those formalities are?

21 A They wouldn't be called formalities, but there are -- in
22 the document there are items that clearly define the activities
23 of a SPV.

24 Q Okay. And out of the documents listed in Appendix C of
25 your report, do you know which document specifically?

1 A I'm glad to help. Document number 4, document number 7,
2 document number 8, document number 9, document number 10, and
3 document number 17. Oh, and document number 18.

4 Q Okay. So Dr. Pearce, document number 18 in appending --
5 Appendix C is the position statement submitted by Respondent's
6 counsel, Mr. Hilgenfeld. How does that define the SPV
7 formalities?

8 A In order to know whether or not the organization
9 recognized, understood, and was committed to pursuing the SPV
10 as it was structured, I look for any evidence in the documents
11 that says, me too, I also agree that this is the way it should
12 look. And so -- the way it should behave, operate. And these
13 items were repeated in all of these documents. The wording is
14 sometimes identical, and -- and that says that there was
15 widespread understanding of the SPV and how it operated and why
16 the organization was committed to it.

17 MS. YASSERI: Your Honor, may I just have two minutes to
18 review my notes?

19 JUDGE SANDRON: Yes.

20 MS. YASSERI: Thank you.

21 (Off the record at 10:11 a.m.)

22 JUDGE SANDRON: Back on the record.

23 MS. YASSERI: Your Honor, I have nothing further for Dr.
24 Pearce. Dr. Pearce, thank you very much.

25 THE WITNESS: Thank you.

1 JUDGE SANDRON: Redirect?

2 MR. HILGENFELD: I do, Your Honor. I apologize; I'm going
3 to ask the General Counsel for a copy of the document that's
4 been admitted into the record?

5 MS. YASSERI: I'm sorry, which document?

6 MR. HILGENFELD: 50 -- 52. Respondent's 52. Yeah, it's
7 been received.

8 JUDGE SANDRON: Go off the record.

9 (Off the record at 10:14 a.m.)

10 JUDGE SANDRON: Back on the record.

11 **REDIRECT EXAMINATION**

12 Q BY MR. HILGENFELD: Dr. Pearce, I'm going to turn your
13 attention to Appendix C.

14 A I don't know about where we are.

15 Q In Respondent's Exhibit 308, your report.

16 A Thank you. Yes, sir.

17 Q And I'm going to turn your attention to Appendix C which
18 should be thir -- page 32 of that document.

19 MR. HILGENFELD: Are we all there?

20 JUDGE SANDRON: Yes.

21 MS. YASSERI: Yes.

22 MR. HILGENFELD: Okay.

23 Q BY MR. HILGENFELD: Dr. Pearce, you used the term
24 formation documents related to Harley Marine Financing. Can
25 you see on Appendix C what document you're referring to?

1 A There -- there -- there were overlaps but number 9, number
2 10, number 7, that would be my answer, I believe.

3 Q Okay, thank you. And number 7 is the amended and restated
4 LLC, and for the record that's Respondent's 36. And I'm going
5 to have you turn to Respondent's 36 in front of you, Dr.
6 Pearce.

7 JUDGE SANDRON: Which number? You say that was which
8 number?

9 MR. HILGENFELD: Respondent Exhibit 36.

10 JUDGE SANDRON: And which -- in his list it was?

11 MR. HILGENFELD: Number 7.

12 JUDGE SANDRON: 7.

13 THE WITNESS: I don't see it --

14 MR. HILGENFELD: May I approach, Your Honor?

15 JUDGE SANDRON: Yes.

16 THE WITNESS: -- but I may have it as something else.

17 MR. HILGENFELD: Well, you have a lot of papers up there.

18 THE WITNESS: See, but that's not -- this is not.

19 MR. HILGENFELD: Thank you. It's -- it's also, if it's
20 easier, it's GC Exhibit 189, starting on page 31; is that
21 correct?

22 THE WITNESS: Yes, sir.

23 MR. HILGENFELD: And just for the record, that's the same
24 as Respondent's 36, it's an attachment to the position
25 statement.

1 Q BY MR. HILGENFELD: What is the --

2 JUDGE SANDRON: Oh, sorry.

3 JUDGE SANDRON: I don't think it's in there. Oh, it is.

4 Thank you.

5 Q BY MR. HILGENFELD: The-- excuse me. As it relates to the
6 formation documents, what is the -- what is the importance in
7 your mind of this document as it relates to Harley Marine
8 Financing?

9 A Harley Marine Financing could be -- could have its legal
10 foundation in a number of different forms. The most common
11 form is this one, an LLC. And so what the company -- what
12 Harvey (sic throughout) Marine Financing can do is spelled out
13 in this document. Who will manage it, is spelled out. And
14 what its resources will be, responsibilities will be, are
15 identified in this document.

16 Q Does this document also identify Harley Marine Financing's
17 principal place of business?

18 A It does.

19 Q If there is an administerial error, putting a wrong date
20 on a principal place of business, does that have any effect on
21 this document?

22 MS. YASSERI: Objection, leading.

23 MR. HILGENFELD: I -- well -- I will assume --

24 Q BY MR. HILGENFELD: I'm going to ask you to assume, Dr.
25 Pearce, that an administerial error has been committed on a

1 document. Does that affect this formation document?

2 A No. It -- that -- the address has no particular value,
3 other than to help distinguish it, in the minds of some
4 people's eyes, about whether or not it has -- the document has
5 satisfied one of the expectations for separateness. So if it's
6 a clerical error, then it has no impact; it was just an error.
7 If it was a true fact, then that would count slightly against
8 the SPV in any kind of discussion about bankruptcy.

9 JUDGE SANDRON: I -- I -- I just want to point out, if
10 it's hypothetical, then his answer is not evidence.

11 MR. HILGENFELD: Well, it's evidence if that hypothetical
12 is true.

13 JUDGE SANDRON: Right, but he -- he can't -- he can't say
14 it was administerial or not.

15 MR. HILGENFELD: And I'm not asking Dr. Pearce to make
16 that determination, Your Honor.

17 JUDGE SANDRON: All right.

18 Q BY MR. HILGENFELD: Dr. Pearce, you should have GC-238 in
19 front of you. It should be an invoice that was just admitted
20 into evidence.

21 JUDGE SANDRON: I believe that R Exhibit 36 you said is
22 contained -- and I don't have R Exhibit 189 -- or GC-189,
23 right, before me? You say it's attached to that?

24 MR. HILGENFELD: Yeah, yes, Your Honor, it's attached.
25 Respondent's 36 is attached on GC-189, pages 31 to one hun --

1 31 to 63.

2 JUDGE SANDRON: Okay. Thank you.

3 THE WITNESS: Would you mind telling me again which
4 document number we're looking for?

5 MR. HILGENFELD: GC-238.

6 THE WITNESS: I'm not finding it.

7 MS. YASSERI: I'll share it if you can't find it.

8 MR. HILGENFELD: I'm not sure we put 238 up there, now
9 that I think about it, when you admitted them in.

10 MS. YASSERI: Yes.

11 JUDGE SANDRON: Do you have it?

12 MS. YASSERI: An extra copy?

13 THE WITNESS: Thank you.

14 Q BY MR. HILGENFELD: Dr. Pearce, I'd first like you -- what
15 invoice number is this?

16 MS. YASSERI: Objection, Your Honor, this is beyond the
17 scope of cross. I -- there were no questions asked of Dr.
18 Pearce regarding this document.

19 MR. HILGENFELD: There was questions asked regarding the
20 proper address of HMF. This goes to HMF's address -- the
21 remittent address on there. This is a document that he
22 reviewed, and he went through the documents that he reviewed as
23 part of his opinion.

24 JUDGE SANDRON: Is this an -- what's that?

25 MS. YASSERI: The document speaks for itself, Your Honor.



1 JUDGE SANDRON: What's that?

2 MS. YASSERI: The document speaks for itself.

3 JUDGE SANDRON: All right. That's true.

4 MR. HILGENFELD: Well, it does speak for itself. They
5 have questions about the formalities of the SPV and sending
6 invoices. I'm allowed to provide additional evidence.

7 JUDGE SANDRON: About --

8 MR. HILGENFELD: They brought up the issue on cross. This
9 was admitted by General Counsel.

10 JUDGE SANDRON: Are you talking about the address?

11 MR. HILGENFELD: Correct. The remittance address says
12 Harley Marine Financing --

13 JUDGE SANDRON: All right.

14 MR. HILGENFELD: -- PO Box 249 --

15 JUDGE SANDRON: Right.

16 MR. HILGENFELD: -- 41.

17 JUDGE SANDRON: Well, just point it out on the record if
18 it's in the document.

19 MR. HILGENFELD: And I'd also point out for the record
20 that in Appendix C, Dr. Pearce has listed invoice number 35017
21 as a document that --

22 JUDGE SANDRON: All right.

23 MR. HILGENFELD: -- he has reviewed.

24 JUDGE SANDRON: Okay, that's noted on the record.

25 Q BY MR. HILGENFELD: So Dr. Pearce, what is the importance

1 of Harley Marine Financing invoicing customers with its
2 principal business office listed at the PO box number in the
3 formation documents?

4 JUDGE SANDRON: Yeah, I -- I don't know --

5 MS. YASSERI: Objection.

6 MR. HILGENFELD: Well, it was asked about the formalities
7 of the address --

8 MS. YASSERI: There was no --

9 MR. HILGENFELD: -- and what the importance is.

10 MS. YASSERI: There were no questions regarding invoices.

11 MR. HILGENFELD: There doesn't have to be about invoices.

12 You asked about the formalities of the corporation. I'm
13 allowed to go into the formalities of the corporation. That's
14 not outside the scope of cross.

15 JUDGE SANDRON: All right. Well, go ahead.

16 MS. YASSERI: I think that interpretation is very broad,
17 Your Honor. That means --

18 JUDGE SANDRON: All right. Well, I don't think we need
19 to -- I mean the document speaks for itself, basically, and
20 Counsel is going to argue --

21 Q BY MR. HILGENFELD: Dr. --

22 JUDGE SANDRON: -- you know, what -- what bearing I should
23 put on that.

24 Q BY MR. HILGENFELD: Dr. Pearce, as it relates to
25 independence, what is the importance of Harley Marine Financing

1 invoicing customers with its appropriate PO box?

2 MS. YASSERI: Same objection, Your Honor.

3 JUDGE SANDRON: Well, I think it -- you're maybe, perhaps,
4 indirectly leading him.

5 Q BY MR. HILGENFELD: Dr. Pearce, in reviewing independence,
6 how should Harley Marine Financing invoice customers as it
7 relates to ad -- its address?

8 A Am I free to substitute the word separateness for
9 independence?

10 Q Of course.

11 A Okay. Then it's important because the owner of the assets
12 that are being deployed in satisfying the contract are owned by
13 Harvey Marine Financing. And so it stands to reason that the
14 use of their assets in fulfillment of the contract would result
15 in an invoice from them.

16 Q Thank you. Do the formation documents in Respondent's 36
17 or GC-189 at page 31 describe Harley Marine Financing's
18 management?

19 A It does.

20 JUDGE SANDRON: Well, I think the document speaks for -
21 speaks for itself.

22 Q BY MR. HILGENFELD: In -- I'll ask this a different way,
23 Dr. Pearce. You -- in your pos -- in Respondent's 308, you
24 have stated "HMF has no overlap of common management with
25 Centerline." on the first bullet point. Do you recall that?

1 A Yeah, I do.

2 Q First, in -- in issuing your report, did you give
3 independent thought to providing your opinion?

4 A Independent from the document?

5 Q Correct.

6 A Certainly, it has to do with, principally, because of
7 other documents that elaborate on or support the document for
8 the LLC If you look -- look at -- can I do this?

9 JUDGE SANDRON: Go ahead.

10 A Look at section 9. Section 9 on page 33 onto 34 is very
11 clear about management and it specifies that management of the
12 LLC is really limited to the board of directors and
13 contractees.

14 JUDGE SANDRON: All right. I -- so let me ask you this.
15 You -- you reviewed the documents in -- listed in Appendix C
16 plus that additional document?

17 THE WITNESS: Yes, sir.

18 JUDGE SANDRON: And you spoke with Mr. Hilgenfeld, and
19 based on that, you made your analysis in terms of the
20 separateness doctrine based on what was provided to you in
21 those documents and the phone conversation?

22 THE WITNESS: Yes. Modified by the fact that I had lots
23 of sources of information and if you wanted to know which
24 documents I could point to, yes, sir, you just did it. If you
25 wanted to know what I know about special purpose vehicles --



1 JUDGE SANDRON: Right.

2 THE WITNESS: -- about LLC corporations, I draw that
3 information from many years and many doc --

4 JUDGE SANDRON: No, I understand but you -- you analyzed
5 the situation based on what you received and you applied your
6 knowledge to that>

7 THE WITNESS: Appl -- yes, sir.

8 JUDGE SANDRON: I think that's very clear.

9 Q BY MR. HILGENFELD: Dr. Pearce, in presenting your report
10 you've mentioned "HMF and Centerline do not have the same day-
11 to-day management." on bullet point three on page 16 of
12 Respondent's 308. Are there documents that you used in
13 reaching that opinion?

14 A Not only documents, but the specific item that I just
15 mentioned does that. It -- it lists the LLC --

16 JUDGE SANDRON: All right.

17 A -- the special purpose vehicles.

18 JUDGE SANDRON: I don't think we want to go through all of
19 the documents.

20 MR. HILGENFELD: We -- we're not, we're just highlighting
21 the points that were listed during General Counsel's cross-
22 examination.

23 JUDGE SANDRON: All right.

24 Q BY MR. HILGENFELD: And is that, when you talked about
25 section 9, is that in the amended and restated limited

1 liability company Harley Marine Financing?

2 A Yes, sir. And it specifies the totality of the management
3 of the LLC and that resides with the board of directors.

4 Q And what is the import of, if any, of the management
5 agreement?

6 A The management?

7 Q Agreement.

8 A Sure. Remember we've talked about the LL -- the special
9 purpose vehicles not having any employees? Well, it has need
10 for people to work for people to work on its behalf. Where did
11 they come from? They came from the manager, and the manager is
12 provided for in multiple documents, at least three. So Harley
13 Marine Services, now Centerline, supplies human capital --
14 human needs for the LLC or the SPV.

15 Q In -- in reaching your conclusions, did you rely on
16 declarations provided to you?

17 A I did.

18 Q Okay.

19 A We have several.

20 Q And in Appendix C, are those the declarations that you --
21 are there any other declarations other than what's listed in
22 Appendix C?

23 A No sir.

24 Q In -- on page 16 of Respondent's 308, you indicate any
25 agreement between HMF and Centerline is conducted at arm's

1 length and fair market value is paid. Was there any documents
2 that you relied on in reaching that opinion?

3 A That was on what page?

4 Q It is on GC Exhibit 189 -- oh, sorry, Respondent's 308,
5 page 16.

6 A Thank you. And where again on the page please?

7 Q The sixth bullet point.

8 A And what documents did I rely on in reaching that
9 conclusion?

10 Q Correct.

11 A So what we're really saying here is that the appointment
12 of a manager had to be done, how is it done, how is it
13 authorized? And there were again, two or three documents that
14 we've discussed that specify the man -- the need for a manager
15 and the responsibilities of that manager. The idea of arm's
16 length would imply that there is no precondition about who that
17 manager would be, that that manager is replaceable, and fair
18 market value suggests that no extraordinary expense should be
19 incurred by Harvey Marine Financing in securing and maintaining
20 that manager.

21 Q And would those be the same agreements that you relied on
22 that you called the formation documents?

23 A Yes, sir.

24 Q On page 17, bullet point 1 --

25 JUDGE SANDRON: I don't know if we're going beyond --

1 MS. YASSERI: Beyond the scope, Your Honor, I'm going to
2 object.

3 JUDGE SANDRON: -- the scope of cross at this point,
4 because -- I mean we're covering every item on -- on the list.

5 MR. HILGENFELD: Counsel went through every single item on
6 this list.

7 MS. YASSERI: I did not, Your Honor.

8 JUDGE SANDRON: I don't think that she did.

9 MS. YASSERI: I did not.

10 JUDGE SANDRON: Which items -- I'll allow counsel to go
11 through the ones -- do you recall which ones you --

12 MS. YASSERI: Yes.

13 JUDGE SANDRON: -- specifically questioned the witness
14 about? I'll allow Respondent's counsel to go on those, but not
15 the others.

16 MS. YASSERI: Yes, I can identify it --

17 JUDGE SANDRON: Yes.

18 MS. YASSERI: -- for the record.

19 JUDGE SANDRON: Yes, go ahead.

20 MS. YASSERI: I questioned Dr. Pearce regarding the second
21 bullet point on page 16 of the report regarding HMF and
22 Centerline and whether they have identical officers and
23 directors.

24 JUDGE SANDRON: Okay.

25 MS. YASSERI: I questioned Dr. Pearce regarding the fifth

1 bullet -- bullet point about HMF having -- about HMF filing its
2 own tax returns --

3 JUDGE SANDRON: Okay.

4 MS. YASSERI: -- and the fact that it did not do that. I
5 questioned Dr. Pearce regarding the sixth item regarding arm's
6 length transactions. Moving onto page 17 of the exhibit, I
7 questioned Dr. Pearce regarding whether HMF and Centerline
8 shared facilities.

9 JUDGE SANDRON: Which is the number?

10 MS. YASSERI: The second bullet point from the top on page
11 17, the Bates-labeled page.

12 JUDGE SANDRON: Okay, one second. Oh I see, up there,
13 yes.

14 MS. YASSERI: Yes.

15 JUDGE SANDRON: I got it. Okay.

16 MS. YASSERI: I asked Dr. Pearce about centralized labor
17 relations.

18 JUDGE SANDRON: And that's --

19 MS. YASSERI: That would be the fourth bullet point.

20 JUDGE SANDRON: On the second page, right?

21 MS. YASSERI: Yes, on page 17 of the exhibit.

22 JUDGE SANDRON: Okay. And I believe that's it.

23 JUDGE SANDRON: All right. So Mr. Hilgenfeld, you can
24 ask, you know --

25 MR. HILGENFELD: Understood.

1 JUDGE SANDRON: -- questions about those items only.

2 Q BY MR. HILGENFELD: Dr. Pearce, you were asked about the
3 true sale doctrine during cross-examination; do you recall
4 that?

5 A I do.

6 Q Can debt forgiveness be a valid basis for transferring or
7 selling assets as a true sale?

8 MS. YASSERI: Objection, leading.

9 JUDGE SANDRON: Yes. Maybe you can re -- rephrase it to
10 avoid that?

11 Q BY MR. HILGENFELD: What types of consideration can be a
12 valid basis for transferring or selling assets as a true sale?

13 A The main criteria by which they're judged is their ability
14 to provide for an ongoing stream of revenue to be used in
15 payment of interest and prepayment -- and repayment of the
16 principle on bonds. So any income-producing asset would be a
17 candidate. It's critically important in the creation of the
18 SPV that the assets have a lower than break-even value to the
19 seller. In other words, they -- their assets must be at a
20 loss. The reason for that is because you don't want the
21 transfer of ownership to trigger a taxable event. So that's
22 another criterion that would help you choose assets.

23 So in order to know whether or not it's a positive or
24 negative event, you would look at the value of the assets and
25 you would also look at the -- at the indebtedness of the

1 assets. So if the assets had large debt that needed to be
2 serviced when the transfer occurred, that would be an important
3 consideration. So --

4 Q When you're talking about large da -- debt being
5 transferred, would that be called debt forgiveness?

6 A It is. It would be -- well, wait a minute. It doesn't
7 have to be, but it sure could be. It's like trading in a car,
8 they'll tell you, we'll pay off your loan, and this makes the
9 purchase of the new car more attractive. It's exactly the
10 parallel here. So when the assets transfer, the subsidiary had
11 its debt voided because it had been assumed by the SPV.

12 Q What are -- I'm going to turn your attention, Dr. Pearce,
13 to GC Exhibit 294.

14 JUDGE SANDRON: 294? Is that the article?

15 MR. HILGENFELD: It is, Your Honor.

16 JUDGE SANDRON: You're maybe going beyond the scope of
17 cross but just go ahead.

18 MR. HILGENFELD: There was extensive questions about this
19 article.

20 JUDGE SANDRON: Did you ask?

21 MS. YASSERI: I did ask them.

22 JUDGE SANDRON: Okay, then you opened the door for that.
23 We have a lot of documents here.

24 MR. HILGENFELD: We certainly do, Your Honor.

25 Q BY MR. HILGENFELD: I'll turn your attention, Dr. Pearce,

1 to page 16 of this exhibit. This exhibit discusses concept of
2 surrendering control as being a factor in a true sale. What is
3 surrendering -- why is -- what is the importance of
4 surrendering control?

5 A Remember that the SPV is created as a new business --
6 independent business, and so the idea of a true sale means that
7 there will be no residual legal influence exerted by the seller
8 over the buyer. That's a true sale.

9 Q And looking at Respondent's 43 -- Respondent's 43 is in
10 front of you, Dr. Pearce, it's the asset sale and purchase
11 agreement.

12 A Oh, thank you. Yes, sir. I'm finally there.

13 Q Have you -- and you've reviewed this prior to testifying
14 today; is that correct?

15 A I did.

16 Q Do you have an opinion as to whether this document
17 surrenders control of the assets to Harley Marine Holdings?

18 MS. YASSERI: Objection, calls for a legal conclusion.

19 MR. HILGENFELD: It's calling for his opinion about where
20 this is going, it's not calling for -- surrendering control is
21 not a legal conclusion.

22 JUDGE SANDRON: All right. Well, I'll allow it. Again, I
23 think I've already said it and there may be a dichotomy between
24 certain concepts of commercial law and what the concepts are
25 under the NLRA, so I'll allow it.

1 THE WITNESS: Could you repeat the question please?

2 Q BY MR. HILGENFELD: Certainly. Did you form an opinion --
3 opinion reviewing the asset agreement as to whether this sale
4 surrendered control from the sellers to Harley Marine Holdings?

5 A I believe that this doc -- yes, I believe this document
6 was created with specifics in mind of establishing a sale.

7 JUDGE SANDRON: All right, okay, you can't --

8 THE WITNESS: Can't do that.

9 JUDGE SANDRON: -- speculate about how it was designed
10 because you saw it after the fact.

11 MR. HILGENFELD: That's not true, Your Honor. He saw this
12 after his -- after his --

13 JUDGE SANDRON: No, no, but he -- I thought he was asked
14 about how it was -- how the document was basically composed but
15 he wasn't privy to that?

16 MR. HILGENFELD: We did not ask him how it was composed.

17 JUDGE SANDRON: Oh.

18 MR. HILGENFELD: I asked him to -- does this -- does this
19 agreement --

20 JUDGE SANDRON: Right.

21 MR. HILGENFELD: -- surrender control of the assets from
22 the --

23 JUDGE SANDRON: Right.

24 MR. HILGENFELD: -- sellers to Harley Marine Holdings?

25 JUDGE SANDRON: But I think he started to answer how it

1 was --

2 MR. HILGENFELD: Oh.

3 JUDGE SANDRON: -- you know, drafted, or --

4 MR. HILGENFELD: I apologize.

5 JUDGE SANDRON: -- so I said -- I cut him off after that.

6 MR. HILGENFELD: Understood.

7 JUDGE SANDRON: So your question, it has been answered.

8 MR. HILGENFELD: Understood. I -- I apologize Your Honor.
9 For the record, I would just point Your Honor to section 2.2,
10 the intention of the parties --

11 JUDGE SANDRON: Okay.

12 MR. HILGENFELD: -- as it relates to Respondent's Exhibit
13 43.

14 JUDGE SANDRON: So noted.

15 Q BY MR. HILGENFELD: Dr. Pearce, going back to your
16 article, GC Exhibit 294, turning your attention to page 13 of
17 that exhibit. You use the term "intermediate SPV". As it
18 relates to Harley Marine Financing securitization, is there an
19 intermediate SPV?

20 A There was -- there is. The intermediate was -- is known
21 as Harley Marine Holdings. Harley Marine Holdings is also an
22 SPV, but it took initial ownership of the transferred assets
23 and immediately transferred those assets to Harley Marine
24 Financing.

25 Q It also talks about an ABS issuing SPV. Is there an ABS

1 issuing SPV in the securitization?

2 A There is.

3 MS. YASSERI: Objection, beyond the scope. There were no
4 questions asked about the ABS.

5 JUDGE SANDRON: Right, I think we're --

6 MR. HILGENFELD: But there was questions asked about how
7 Harley Marine Financing was formed and what it goes to. I
8 mean, there's questions about his article that went into it and
9 defining what he uses by terms. Certainly, it goes -- it is
10 not beyond the scope.

11 MS. YASSERI: There were very limited questions, Your
12 Honor, about the article --

13 MR. HILGENFELD: And I'm asking --

14 MS. YASSERI: -- regarding specific doctrines.

15 MR. HILGENFELD: And I'm asking very limited questions
16 here about the article that is presented by General Counsel.
17 I'm allowed to go through the entire article, she can't pick
18 and choose which exhibits she cross-examines on. She offered
19 it, she went through it. I'm allowed to go through it as well.

20 JUDGE SANDRON: I'm -- I'm not sure that we need him to
21 really say much more. I -- I -- I think he's set out in great
22 detail in his report on, you know, his general expertise in the
23 subject of the SPVs and his conclusions regarding, you know,
24 the situation here based on the information he was provided and
25 how that dovetails into his expertise in the field.

1 MR. HILGENFELD: I'm really just asking a clarifying
2 question, what -- this there an ABS issuer in this case?

3 JUDGE SANDRON: All right. Go ahead.

4 Q BY MR. HILGENFELD: Is there an ABS issuer in the
5 securitization involved in this matter?

6 A There is.

7 Q And who's that?

8 A And what, sir?

9 Q Who is that?

10 A Who is the issuer?

11 Q Who is -- who is the AB -- ABS issuer SPV?

12 A Harley Marine Financing.

13 Q Thank you.

14 MR. HILGENFELD: If I could just have a few moments, Your
15 Honor.

16 JUDGE SANDRON: Yes. Do you want to go off the record for
17 a moment?

18 MR. HILGENFELD: Thank you.

19 JUDGE SANDRON: Off the record.

20 (Off the record at 10:59 a.m.)

21 JUDGE SANDRON: Back on the record.

22 **RESUMED REDIRECT EXAMINATION**

23 Q BY MR. HILGENFELD: I couldn't -- it might be my hearing,
24 Dr. Pearce. Did you say Harvey Marine Financing or Harley
25 Marine Financing?

1 A Harley Marine financing.

2 Q Thank you.

3 MR. HILGENFELD: No further questions. Thank you, Your
4 Honor.

5 JUDGE SANDRON: Okay. Ms. Yasseri, any recross?

6 MS. YASSERI: Just briefly, Your Honor, if I may.

7 **RECROSS-EXAMINATION**

8 Q BY MS. YASSERI: Dr. Pearce, you -- you testified on
9 redirect that under these internal agreements, the manager has
10 certain authorities, correct?

11 A Yes, ma'am.

12 Q And Centerline is the manager with respect to Harley
13 Marine Financing?

14 A Yes, that's correct.

15 Q And then you also talked about when Mr. Hilgenfeld asked
16 you about consideration, I believe you -- you mentioned that
17 the assets must be at a loss for it to --

18 A The --

19 Q -- can you explain that?

20 A -- the composite?

21 Q So -- and some of those assets could include contracts,
22 correct?

23 A Yes.

24 Q So -- so sir, can you sort of explain for us that concept
25 of the contracts having to be at a loss in order for it to be

1 proper consideration?

2 A So if I may, I'm not talking about any particular item,
3 I'm talking about the pool of items.

4 Q Yes.

5 Q And so when -- so the contracts have a value that is
6 fairly fixed. And so we know what that value is when it
7 transfers. So that's a transfer of an asset, and it's got a
8 specific value, and it gets added to the pot. And that pot,
9 hopefully, is negative. Remember we talked -- we talked about
10 the selection of the assets? This is why the assets -- in
11 part, this is why the assets are selected. They're selected so
12 that you have a net negative.

13 Q And when you say a net negative, you mean as compared to
14 the value of the assets versus the debt that's owed, is that --

15 A No, the value of the assets, period.

16 Q Period.

17 A But considering in the formula, the debt.

18 Q Got it.

19 MS. YASSERI: I have nothing further. Thank you, Dr.
20 Pearce.

21 THE WITNESS: Thank you.

22 JUDGE SANDRON: Any follow up questions?

23 MR. HILGENFELD: No, Your Honor.

24 JUDGE SANDRON: Okay. Thank you, Dr. Pearce.

25 THE WITNESS: Thank you, Judge.



1 JUDGE SANDRON: You're done. Your testimony was quite
2 interesting.

3 THE WITNESS: Thank you, sir. I appreciate your time.

4 MR. HILGENFELD: Can we take a morning recess? We have
5 our up -- next witness up.

6 JUDGE SANDRON: Yes. Let's see, it's -- it's a little
7 early. But if you want to take --

8 MR. HILGENFELD: It's just a good changeover of getting
9 Dr. Pearce out.

10 JUDGE SANDRON: All right.

11 MR. HILGENFELD: It's going to take me probably ten
12 minutes anyway to get everything organized.

13 JUDGE SANDRON: All right. Do you want to then come back
14 at -- at -- make it -- come back at 12:00? It's 11:00.

15 MR. HILGENFELD: Oh, no. I -- I -- just ten minutes is
16 good.

17 JUDGE SANDRON: Oh, ten minutes.

18 MS. YASSERI: Okay.

19 JUDGE SANDRON: Oh, I thought you meant lunch. That's
20 what I was wondering.

21 MR. HILGENFELD: Oh, no, no, no. Just -- just a quick
22 ten-minute break.

23 JUDGE SANDRON: Okay.

24 MS. YASSERI: Like 11:15?

25 MR. HILGENFELD: Yeah, that's perfect.

1 JUDGE SANDRON: Oh, yeah. We can --

2 MS. YASSERI: It's 11:04 right now.

3 MR. HILGENFELD: Yeah, that's perfect.

4 JUDGE SANDRON: Yeah, we can take a short recess.

5 MS. YASSERI: Okay.

6 JUDGE SANDRON: That's fine. I thought you meant --

7 that's why I was a little surprised. But I understand.

8 MR. HILGENFELD: Yeah, no, no, no.

9 JUDGE SANDRON: Ten minutes is fine. Okay. Off -- off
10 the record.

11 (Off the record at 11:04 a.m.)

12 JUDGE SANDRON: We're back on the record. Do you have
13 your next witness?

14 MR. HILGENFELD: We do, Your Honor. Sven Titland.

15 JUDGE SANDRON: Mr. Titland, if you'll please come up I'll
16 swear you in. I'm Judge Sandron. Please raise your right
17 hand.

18 Whereupon,

19 **SVEN TITLAND**

20 having been duly sworn, was called as a witness herein and was
21 examined and testified as follows:

22 JUDGE SANDRON: If you could come up with a witness stand
23 and be seated. Please state and spell your full and correct
24 legal name, and provide us with an address either work or
25 residence.

1 THE WITNESS: Sven Robert Titland. S-V-E-N R-O-B-E-R-T
2 Titland, T-I-T-L-A-N-D. My address is 910 Southwest Spokane
3 Street, Seattle, Washington 98134.

4 JUDGE SANDRON: Okay. Thank you.

5 THE WITNESS: Yeah.

6 JUDGE SANDRON: Please go ahead, Mr. Hilgenfeld.

7 MR. HILGENFELD: I apologize. I believe General Counsel
8 wanted to put something on the record before we start with the
9 witness.

10 MR. RIMBACH: Sure. Just real quick. During the last
11 break, I distributed USB drives to the party's Counsel, Your
12 Honor, to Your Honor, as well as the court reporter. And those
13 USB drives contain General Counsel's Exhibits 242 through 283,
14 which were previously offered and admitted under the protective
15 order. And I'd just like to note for the record that the USB
16 drives are password protected, because of the protective order,
17 and I provided the password to the recipients of the USB
18 drives.

19 MR. WOJCIECHOWSKI: Thank you, Chris.

20 JUDGE SANDRON: Okay, thank you. It's on the record.

21 MR. HILGENFELD: Thank you.

22 **DIRECT EXAMINATION**

23 Q BY MR. HILGENFELD: Mr. Titland, good morning.

24 A Good morning.

25 Q Mr. Titland, are you employed?



- 1 A Yes.
- 2 Q Where are you employed?
- 3 A Seattle.
- 4 Q What company are employed with?
- 5 A Olympic Tug and Barge.
- 6 Q And what is your current position -- if I call them OTB,
- 7 are you familiar with that acronym?
- 8 A I am, yes.
- 9 Q What is your position with OTB?
- 10 A I'm the general manager at OTB.
- 11 Q And how long have you been the general manager?
- 12 A I believe around three years. Between two and three
- 13 years.
- 14 Q Prior to being the general manager for OTB, did you have
- 15 another position with the company?
- 16 A Yes.
- 17 Q And what was that?
- 18 A Operations manager, and --
- 19 THE COURT REPORTER: Excuse me, can you repeat your
- 20 question prior to being the general manager?
- 21 Q BY MR. HILGENFELD: Prior to being the general manager,
- 22 did you have another position with Olympic Tug and Barge?
- 23 A Operations manager and port captain.
- 24 Q And how long were you the operations manager?
- 25 A I would say two to three years.

1 Q And how long were you a port captain?

2 A One to two years.

3 Q And how long have you worked for Olympic Tug and Barge in
4 its entirety?

5 A Since January 1st, 2012.

6 Q Have you ever worked for another Centerline Logistics
7 affiliated company?

8 A No.

9 Q We'll go through reverse order. As a port captain, what
10 were your duties and responsibilities?

11 A Training and vessel inspections primarily at the
12 beginning.

13 Q And did your responsibilities grow?

14 A They did, yes.

15 Q What did they grow into?

16 A They grew into interviewing, and hiring, and reprimanding
17 and placement -- crew placement. And then more communications
18 with Coast Guards, customers, safety related issues. And then
19 finally into budgeting and --

20 Q When you became the operations manager, what were your
21 duties and responsibilities?

22 A I -- I apologize. I kind of gave responsibilities
23 throughout the whole progression from port captain to general
24 manager with that description right there. So --

25 Q Okay, so the responsibilities that you gave before, that



1 was when you were both a port captain and ops manager?

2 A Yes.

3 Q So out of that list, what were the job duties and
4 responsibilities with just the port captain?

5 A Just port captain was training and vessel inspections.

6 Q The other duties and responsibilities would be related to
7 when you were ops manager?

8 A Yes.

9 Q And as the general manager, what are your duties and
10 responsibilities?

11 A Well, it's -- it's a lot more customer communication,
12 budgeting, and overseeing other individuals that do the vessel
13 inspections, the training. I assist in hiring. I assist and
14 oversee hiring, and reprimanding, and crew member placement. I
15 communicate with the Coast Guard. Budgeting.

16 Q If you could, Mr. Titland, briefly describe Olympic Tug
17 and Barge's operations?

18 A Well, we're a tug and barge company. We have 25 tugboats
19 on the West Coast, and the number varies a little bit, but
20 approximately 32 barges. And we specialize in hauling all
21 different types of petroleum products, but we're not limited to
22 that. We'll do special projects. We'll tow anything, really.
23 But we're really good at towing petroleum.

24 Q Does Olympic Tug and Barge own the tugs and barges?

25 A No.

1 Q Do you know what company owns the tugs and barges, or
2 enters into lease agreements?

3 A Harley Marine Financing.

4 Q Does Olympic Tug and Barge -- do you know what a bareboat
5 charter is?

6 A I do.

7 Q What's a bareboat charter?

8 A It's essentially just a lease of a piece of equipment.

9 Q Lease of a boat?

10 A Of a boat. There you go.

11 Q Or -- or a barge, vessel, I guess?

12 A Yes.

13 Q Does Olympic Tug and Barge enter into bareboat charters to
14 utilize those pieces of equipment?

15 A Yes, we do.

16 Q You said you specialize in hauling petroleum products.
17 What's -- what's involved in the hauling of petroleum products?

18 A There's a lot, but to put it simply, we have a whole fleet
19 of tank barges, and a tugboat will hook up to a barge, and take
20 it to a terminal, and hook up a hose and fill the barge. And
21 then we'll tow it to wherever the customer would like us to go,
22 and we'll hook up another hose and empty the barge.

23 Q What is the geographical range for the services provided
24 from Olympic Tug and Barge right now?

25 MS. YASSERI: Objection, vague as to time.

1 MR. HILGENFELD: I said right now.

2 MS. YASSERI: Oh, I'm sorry. Withdrawn.

3 Q BY MR. HILGENFELD: What -- currently, what is Olympic
4 Tug and Barges range of services provided?

5 A From Dutch Harbor to Los Angeles, including Hawaii, San
6 Francisco, Portland, Washington, all over Alaska, Hawaii, and
7 then in between and back and forth.

8 Q And currently, as you sit here right now, do you
9 operate -- does Olympic Tug and Barge operate in any of the
10 ports in those areas?

11 A Yes.

12 Q What ports does Olympic Tug and Barge operate in?

13 A Honolulu, Los Angeles, San Francisco, Portland, Puget
14 Sound, Vancouver Harbor, all throughout southeast Alaska,
15 Prince William Sound, Cook Inlet, up and down the Aleutian
16 chain, and to Dutch Harbor.

17 Q When you talk about petroleum transportation services,
18 what types of petroleum transportation services are provided,
19 if you could break it down into types?

20 A There's three main types of services. One would be
21 bunkering, another would be a terminal transfer, and then a
22 third would be a lightering.

23 Q How would you define bunkering?

24 A Bunkering is when a ship or a vessel calls us, and they
25 need to -- they need fuel for consumption to propel their

1 vessel. So we'll fill up a barge at a terminal, pull it
2 alongside the ship, hook up a hose, and basically fuel their
3 equipment so that they can continue on their voyage.

4 Q And what's a terminal transfer?

5 A So a terminal transfer, to put it simply, would be filling
6 at one terminal, whether it be a refinery or a storage
7 facility, and then taking a barge and taking it back to another
8 terminal, whether it be a refinery or a storage facility, and
9 discharging it.

10 Q What would be lightering?

11 A That is when we put a barge alongside a tanker or a vessel
12 that holds product not for consumption, but for revenue, and
13 then gives it to us or we give it to them. It's a transfer of
14 petroleum that is meant for revenue generating, not propulsion.

15 Q Does Olympic Tug and Barge perform any coastal petroleum
16 product -- product transportation?

17 A Yes.

18 Q How -- well, how would you define coastal transportation?

19 A It's just any movement that goes outside of the boundary
20 lines out into the ocean.

21 Q Do you know what the boundary lines are?

22 A Yes. They're stipulated in the CFRs.

23 Q Are you familiar with the -- does Olympic Tug and Barge
24 provide any inland or harbor services?

25 A Yes.

1 Q And how are inland or harbor services provided?

2 A It's just the voyages inland that don't require us to go
3 outside.

4 Q So there's an imagine -- if I'm understanding this
5 correctly, there's an imaginary line at some point in point.
6 If you go outside of it, you're in coastal waters, inside of it
7 is harbor or inland?

8 A Correct.

9 Q If I use the term inland or harbor, do those have
10 different meanings to you?

11 A Inland -- well, no. I understand that they're the same,
12 but the word inland is the Coast Guard term.

13 Q In -- Mr. Titland, in the harbors that you had identified
14 that you performed services in currently, has that changed in
15 the last five years?

16 A Yes.

17 JUDGE SANDRON: I think maybe before -- before you go on,
18 how many employees work under you at Olympic Tow and Barge?

19 THE WITNESS: I would say -- crew members, I think we just
20 hit 300. And I'm also in charge of the dispatch department,
21 and a number of port captains and the operations manager, which
22 is probably another 12 people. So maybe 312 would be a guess.

23 JUDGE SANDRON: I see, approximately?

24 THE WITNESS: Approximately, yes.

25 JUDGE SANDRON: And to whom do you report?

1 THE WITNESS: I don't report to anyone, per se, but -- but
2 I have a boss.

3 JUDGE SANDRON: Who's your boss?

4 THE WITNESS: A gentleman named Dan Morrison.

5 JUDGE SANDRON: What -- what's his name?

6 THE WITNESS: Dan Morrison.

7 JUDGE SANDRON: Okay. I think we have that in the record,
8 right?.

9 MR. HILGENFELD: We do, Your Honor.

10 JUDGE SANDRON: Okay. Thank you.

11 THE WITNESS: Yes, sir.

12 Q BY MR. HILGENFELD: Mr. Titland, in -- and just walking
13 through what Judge Sandron asked you, you said 300 crew
14 members, and you'd already outlined the tugs and the barges.
15 What is the crewing complement for Olympic Tug and Barge
16 vessels?

17 A That is a fairly complex question, and it relates to the
18 size of the vessels, the gross tonnage that -- that they're
19 built as, the area of operation, the manning requirements for
20 international, or offshore, or oceans, or inland, all changes.
21 And it -- and it also has to do with the size of the vessel,
22 and what our own company policies stipulate, as well.

23 Q In -- we'll walk through, I guess, this. And Mr. Titland,
24 you'd mentioned performing services in Dutch Harbor, currently.
25 Have you performed services in Dutch Harbor for the last five

1 years?

2 A Yes.

3 Q Are those -- I guess, before I get to this question, we
4 mentioned coastal transportation and inland harbor
5 transportation. Are there any other types that I'm missing?

6 A Technically, yes. There's ocean and international.

7 Q Does OTB perform any ocean or international?

8 A Yes.

9 Q And where would OTB provide ocean services, and between
10 what areas?

11 A Primarily, crossing the Gulf of Alaska, and crossing the
12 Pacific Ocean on the way to Hawaii.

13 Q In looking at the three types of bunkering, terminal
14 transfers, or lightering, what types of those would be involved
15 in ocean transport transportation?

16 A Well, it depends. I would say primarily terminal
17 transfers, but we'll do whatever is asked of us. And it
18 wouldn't be unheard of to involve a bunker job, or a lightering
19 in an ocean transit.

20 Q And then where does Olympic Tug and Barge provide
21 international transportation services?

22 A We have transited through the Panama Canal. We have a tug
23 on the way to Japan under way right now. We consistently go in
24 and out of Canada, regularly.

25 Q And of the three types of transportation services that

1 you've listed, are those -- which ones are those do you do
2 internationally?

3 A We would do all of the above.

4 Q And going back to the ocean. How long has OTB provided
5 that ocean transportation services to Alaska and crossing the
6 ocean Pacific to Hawaii?

7 A Alaska, as long as I've worked at the company. Hawaii, I
8 believe, six years.

9 Q And as far as the international work, how long has OTB
10 provided international work?

11 A It's been a -- it's been a long time. I'm unsure, though.
12 Longer than I've worked there.

13 Q Where does OTB provide coastal work?

14 A In between all -- all of the ports that I originally
15 listed, wherever asked up and down the West Coast.

16 Q Would that include California?

17 A Yes.

18 Q As relates to coastal transportation, what types of the
19 petroleum transportation services, the bunkering, terminal
20 transfers, and lightering does Olympic Tug and Barge perform?

21 A All of -- all of the above.

22 Q And how long has that been the case?

23 A Since well before I've worked with the company.

24 Q And does that include California?

25 A Yes.

1 Q And does Olympic Tug and Barge perform inland at harbor
2 transportation services?

3 A Yes.

4 Q And where does Olympic Tug and Barge perform those
5 services?

6 A Washington, Portland, L.A., San Francisco, Alaska, Hawaii.

7 Q Does some Olympic Tug and Barge provide -- what -- what
8 petroleum services related to bunkering, terminal transfers,
9 and lightering does Olympic Tug and Barge provide regarding
10 inland harbor services?

11 A Whatever is asked of us by the customers.

12 Q Doctor -- not, doctor, I'm promoting you. In title.

13 A Thank you.

14 JUDGE SANDRON: You're missing Dr. Pearce.

15 Q BY MR. HILGENFELD: Mr. Titland, are there different
16 credential requirements for different types of where you're
17 performing work?

18 A Absolutely, yes.

19 Q How do the crewing -- or how do credential requirements
20 differ between the coastal, inland, harbor, ocean, and
21 international services that are provided?

22 A I suppose you could think of it as a progression. Inland
23 being at the bottom, as far as the Coast Guard is concerned,
24 and then the more time you spend in the industry, and the more
25 desire you wish to progress your licensing, then you move from

1 inland to near coastal, then to oceans. And those are
2 licensing endorsements that are given by the Coast Guard.

3 Q And where are those licensing endorsements found?

4 A On an individual's Coast Guard Merchant Mariner
5 credential.

6 Q So the individual merchant -- merchant mariner card would
7 identify if they could provide inland work, coastal work, or
8 ocean work. Do I understand that correctly?

9 A That's correct.

10 Q Can -- if you have an ocean credential, can you -- can you
11 perform work in the coastal inland areas?

12 A Yes.

13 Q If you have coastal credential, can you perform work in
14 the ocean?

15 A No.

16 Q Can you perform work in the inland or harbor?

17 A Yes.

18 Q If you have an inland or harbor credential, can you
19 perform work in the coastal or ocean?

20 A No.

21 Q Mr. Titland, regarding the inland Harbor work that you had
22 mentioned performing, describe -- and you'd mention the ports
23 that you performed in. I believe you mentioned Washington,
24 Portland, L.A., San Francisco, Alaska and Hawaii. Do I have
25 that correct?

1 A Correct.

2 Q Describe the inland harbor work that Olympic Tug and Barge
3 currently performs in San Francisco?

4 A Well, we do all kind -- we'll do whatever is asked of us
5 under all three of these categories.

6 JUDGE SANDRON: Can you give us just a rough idea of what
7 percent of the work that you do is for each -- under those
8 three categories?

9 THE WITNESS: I would say a majority of the work in San
10 Francisco would be terminal transfers. It -- it's really hard
11 to give a percent because it varies depending on customer needs
12 and -- and the market, really. So it -- it changes.

13 JUDGE SANDRON: I see. So --

14 THE WITNESS: Yeah.

15 JUDGE SANDRON: -- so it's not a consistent division of
16 the work?

17 THE WITNESS: No. It's just the -- the needs of the
18 market. And -- and we do whatever the customer asks. So --

19 JUDGE SANDRON: I see.

20 Q BY MR. HILGENFELD: Mr. Titland, you had mentioned that
21 you provide bunkering, terminal, and lightering inner harbor
22 work in San Francisco, currently.

23 A Um-hum.

24 Q How long have you been providing those services in San
25 Francisco?

1 A For as long as -- longer than I've worked at Olympic Tug
2 and Barge.

3 Q Does that include all three of those services?

4 A It does.

5 Q You mentioned -- does Olympic Tug and Barge have different
6 customers in different areas of the West Coast?

7 A It does, yes.

8 Q I'm going to turn your attention to the California area.
9 Who are your customers, generally speaking, in the California
10 area?

11 A Well. First of all, it's -- it's anyone, really, that
12 comes to us, and would like to move some petroleum, and we can
13 agree upon the price. But primarily, Phillips 66, BP,
14 Marathon, Tesoro, Minerva, I'll -- I'll end there, but the list
15 goes on.

16 Q Has Olympic Tug and Barge provided services to Glencore?

17 A Yes.

18 Q How long has Olympic Tug and Barge provided services to
19 Glencore?

20 A For as long as I can remember.

21 Q You mentioned P -- or Phillips 66. I believe there's also
22 been testimony regarding P66. Is there a difference?

23 A No, there is not.

24 Q BP, is that British Petroleum?

25 A Yes. Chevron. We've done some work for Chevron, as well,



1 Olympic Tug and Barge has.

2 Q Are you familiar with Aegean?

3 A I am, yes.

4 Q Who's Aegean?

5 A It's a customer.

6 Q Do they have any connection with Minerva?

7 A I don't know.

8 JUDGE SANDRON: Can -- can you spell that for us?

9 MR. HILGENFELD: A-E-G-E-A-N.

10 JUDGE SANDRON: Thank you.

11 Q BY MR. HILGENFELD: So these were California customers.

12 And I want to turn your attention to which of these customers
13 that you just listed do you provide inner harbor services, or
14 have, in San Francisco?

15 A P66, Marathon, Chevron. I -- I can't recall any others to
16 be certain. I mean, we'll do whatever we're asked by the
17 customer.

18 Q And regarding inner harbor work in L.A. Long Beach, has --
19 does Olympic Tug and Barge currently perform inner harbor work
20 in Olympic Long Beach --

21 A Yes.

22 Q -- L.A./Long Beach?

23 A Yes.

24 Q How long has Olympic Tug and Barge performed inner harbor
25 work in L.A./Long Beach?

1 A Since before I've worked for Olympic Tug and Barge.

2 Q What of the petroleum services has Olympic Tug and Barge
3 performed in L.A./Long Beach?

4 A Bunkering, lightering, and terminal transfers.

5 Q And out of the California customers in L.A./Long Beach,
6 does Olympic Tug and Barge, or has performed, work for Phillips
7 66 in L.A./Long Beach?

8 A Yes.

9 Q Has Olympic Tug and Barge performed work for British
10 Petroleum in L.A./Long Beach?

11 A Yes.

12 Q Has Olympic Tug and Barge performed work for Marathon in
13 L.A./Long Beach?

14 A Yes.

15 Q How about Tesoro?

16 A Yes.

17 Q How about Minerva?

18 A Yes.

19 Q How about Glencore?

20 A Yes.

21 Q How about Chevron?

22 A Yes.

23 JUDGE SANDRON: You've -- you got to say yes. You have to
24 say yes.

25 A Yes. Yes.

1 MR. HILGENFELD: I believe -- I apologize, Mr. Titland.
2 I think I spoke over you when you were answering.

3 JUDGE SANDRON: Oh.

4 THE WITNESS: Oh, sorry.

5 MR. HILGENFELD: That's my fault.

6 THE WITNESS: Okay.

7 Q BY MR. HILGENFELD: How long has Olympic Tug and Barge
8 performed inner Harbor Services for those L.A. customers in
9 L.A./Long Beach?

10 A Since before I've worked for OTB.

11 Q Does -- does Olympic Tug and Barge coastal equipment
12 perform inner harbor work?

13 A Yes.

14 Q When I refer to coastal equipment, do you understand what
15 that means?

16 A I do.

17 Q How would you define what coastal equipment is?

18 A Well, the Coast Guard defines what coastal equipment is,
19 and it's written on a document that's kept on the vessel.

20 Q And we went through this with the credentials, but I'll
21 ask the same thing. I guess, is there different coastal
22 requirements for tugs as opposed to barges?

23 A Yes, there's different requirements.

24 Q Do both of them have to be able to meet Coast Guard
25 regulations to perform coastal work?

- 1 A Yes.
- 2 Q Can a coastal tug perform inland harbor work?
- 3 A Yes.
- 4 MS. YASSERI: Objection.
- 5 JUDGE SANDRON: Leading?
- 6 MS. YASSERI: Yes.
- 7 JUDGE SANDRON: Yes.
- 8 Q BY MR. HILGENFELD: I guess, where can -- where can a
- 9 coastal tug perform work?
- 10 A On the coast and inland.
- 11 Q Where can a coastal barge perform work?
- 12 A On the coast and inland.
- 13 Q Do they -- is there also an ocean equipment requirement?
- 14 A No, not for equipment.
- 15 Q Aside from inner harbor, or inland harbor, and coastal, is
- 16 there any other types of designations that equipment has to
- 17 pass through?
- 18 A Yes. But not -- it gets pretty convoluted.
- 19 Q Fair enough.
- 20 A Okay.
- 21 Q Has Olympic -- what pieces of equipment does Olympic Tug
- 22 and Barge utilize to perform inland harbor work in L.A./Long
- 23 Beach?
- 24 A All -- all of our equipment.
- 25 Q Does that include coastal equipment?

1 A Yes.

2 Q Is the answer the same for San Francisco?

3 A Yes.

4 MR. HILGENFELD: I'm about to change topics, Your Honor,
5 and its noon. Do we want to take a break?

6 JUDGE SANDRON: It might be a good time. Do -- do you
7 want to come back at 1:00?

8 MR. HILGENFELD: That'd be perfect, Your Honor.

9 JUDGE SANDRON: Okay. Then we'll see you back at 1:00.

10 THE WITNESS: Okay.

11 JUDGE SANDRON: Okay, everybody. Have a good lunch hour.
12 Off the record.

13 (Off the record at 11:56 a.m.)

14 JUDGE SANDRON: Back on the record.

15 MR. HILGENFELD: Good afternoon, Mr. Titland.

16 THE WITNESS: Good afternoon.

17 MR. HILGENFELD: You made it back. That's a good sign.

18 JUDGE SANDRON: We're glad -- we're glad that you're back.

19 THE WITNESS: Thank you, Your Honor.

20 JUDGE SANDRON: I think Mr. Hilgenfeld is especially glad
21 you're back.

22 MR. HILGENFELD: I -- I am. The only one who is not glad
23 you're back is probably you.

24 **RESUMED DIRECT EXAMINATION**

25 Q BY MR. HILGENFELD: Mr. Titland, in 2020, did you receive



1 notice regarding a potential bid for work that was put out?

2 A Yes.

3 Q Who did you receive that bid from?

4 A Jennifer Beckman.

5 Q And I'm going to turn -- do you recall what ports were
6 being bid?

7 A Yes, I do.

8 Q And what ports?

9 A New York, L.A./Long Beach, and San Francisco.

10 Q And I'm going to turn your attention to -- it should be in
11 your notebook right in front of you, Respondent's Exhibit 17
12 that's been admitted into evidence.

13 A Okay.

14 Q Mr. Titland, do you recognize Respondent's -- and take the
15 time to look through it, to you recognize Respondent's Exhibit
16 17?

17 A This, no.

18 Q And what is -- what do you see in Respondent's Exhibit 17?

19 A Correspondence between Matt Godden and Jennifer Beckman.

20 Q Oh, I apologize.

21 JUDGE SANDRON: Yes.

22 THE WITNESS: I think it was.

23 MS. YASSERI: Yeah.

24 MR. HILGENFELD: May I approach, Your Honor.

25 JUDGE SANDRON: Yes. Go ahead.



1 THE WITNESS: Oh, is this -- this is not it.

2 MR. HILGENFELD: That's 16. This is 16. It's after --
3 it's after the tab.

4 THE WITNESS: This one. Okay. I -- I apologize.

5 JUDGE SANDRON: Okay. Is it --

6 MR. HILGENFELD: If -- if you look right below, there
7 should be what they call a Bates number that says Respondent's
8 exhibit.

9 THE WITNESS: Okay. 19. Or 17. Sorry.

10 JUDGE SANDRON: 19 pages.

11 THE WITNESS: 19 pages.

12 JUDGE SANDRON: Right.

13 THE WITNESS: Exhibit 017.

14 Q BY MR. HILGENFELD: And -- and what -- what do you -- what
15 is that document? What's the title of the document?

16 A It's an invitation to tender for manning and management
17 of --

18 Q Have you seen this document before?

19 A Yes.

20 Q And when did you receive this document?

21 A It would have been sometime in October, I believe.

22 Q Of what year?

23 A Of 2020.

24 Q And how did you receive this document from Ms. Beckman?

25 A As an attachment in an email.

1 Q And what did you understand that this document was
2 presenting to you, if you had an understanding?

3 A Well, I just figured that we had some work coming up,
4 potentially, and it was an invitation to bid on the work.

5 Q Did -- did Olympic Tug and Barge present a bid for work?

6 A Yes.

7 Q Who presented that bid?

8 A I did.

9 Q What -- what steps did you do to present your bid?

10 A Well, it was a fairly simple process. I just looked at
11 the current wages that we were paying the Olympic Tug and Barge
12 employees, and applied those wages to the Korean complements
13 that I came up with based off of our procedures, and Coast
14 Guard, and the area of operation, and the equipment size, and
15 plugged all the numbers together.

16 JUDGE SANDRON: Did you have to go into any records of OTB
17 or -- or were you able to pretty much just figure it out
18 without doing any research into it?

19 THE WITNESS: Well, I got an average of the wages from
20 the finance department on -- Olympic Tug and Barge wages per
21 position.

22 JUDGE SANDRON: And which -- which company is that finance
23 department?

24 THE WITNESS: That is Centerline Logistics.

25 JUDGE SANDRON: So -- so you got some of the data from

1 that department?

2 THE WITNESS: Yes.

3 Q BY MR. HILGENFELD: And who from that department provided
4 the data, if you recall?

5 A Bill Backe.

6 Q And I believe you testified, Mr. Backe was with what
7 company?

8 A Centerline Logistics.

9 Q And what -- do you know, Mr. Backe's position was with
10 Centerline Logistics?

11 A I don't remember a specific title, but I just knew he had
12 that information.

13 Q And when you said it was a real -- relatively simple
14 process regarding -- and are you referring to -- if you look at
15 Exhibit 17, what page are you referring to in this Exhibit?

16 JUDGE SANDRON: I -- I don't know. That may be a hard
17 question to -- to answer.

18 A I think the schedule of rates is what I was referring to.

19 Q BY MR. HILGENFELD: Okay. And did Olympic Tug and Barge
20 submit a bid?

21 A Yes.

22 Q Which ports did Olympic Tug and Barge submit a bid for?

23 A New York, L.A./Long Beach, and San Francisco.

24 Q I'm going to turn your attention to Respondent's Exhibit
25 20 in your book there. Do you have that in front of you, Mr.

1 Titland?

2 A I do.

3 Q And -- and just so we're on the same page, what -- what do
4 you have as Respondent's Exhibit 20?

5 A The letter of acknowledgment.

6 Q And -- and whose letter of acknowledgment?

7 A Olympic Tug and Barge's.

8 Q Do you recognize this writing?

9 A I do.

10 Q And whose is it?

11 A That's mine.

12 Q I'm going to turn your attention to page 4 of this
13 document. In the -- there's a number of barges and a total per
14 day. Do you see that?

15 A Yes.

16 Q How did you come to the daily barge rate?

17 A I -- like I said, I took the -- the information on
18 existing Olympic Tug and Barge shoreside tankerman and deckhand
19 wages. And I came up with a work schedule, and a daily rate
20 for each individual, and plugged them into a total per day.

21 Q And what is a -- I see 14 shoreside tankerman, what does
22 that indicate?

23 A Well, Los Angeles and Long Beach -- it -- it indicates a
24 tankerman that doesn't live on the boat. A shoreside tankerman
25 is a tankerman that does a shift and then goes home.

1 Q Then what does the four deckhands indicate?

2 A A deckhand stays on the boat and will help on the barge.

3 Q And what was your proposed crewing complement for the
4 L.A./Long Beach barges?

5 A Two men per job.

6 Q And when you say two men per job is it -- right -- does it
7 depend on -- how do you know which two men?

8 A Two tankerman --

9 Q Okay.

10 A -- per job during a transfer.

11 JUDGE SANDRON: And that's required?

12 THE WITNESS: No, it's not necessarily required. The
13 Coast Guard requires one.

14 JUDGE SANDRON: I see.

15 THE WITNESS: One person, one PIC or a tankerman.

16 Q BY MR. HILGENFELD: And why did you put in two?

17 A It just it was better for the crew members, and safer.

18 JUDGE SANDRON: I see. So that's -- that's the practice?

19 THE WITNESS: Yes.

20 Q BY MR. HILGENFELD: And said two members -- did I
21 understand when they're loading and unloading --

22 A Correct.

23 Q -- what do you mean by un -- loading and unloading?

24 A Loading and discharging. So loading would be at the
25 terminal, and discharging would be at the ship for a bunker

1 job.

2 Q Is -- is a barge always loading and unloading product?

3 A No, no, not necessarily. Sometimes they'll load, and then
4 sit and wait for the ships to arrive or multiple ships.

5 Sometimes they'll take a whole load, do one ship, wait, and go
6 do another ship the following day.

7 Q When a OTB barge is not loading or unloading, what's the
8 crew complement?

9 A Zero. It can be from 0 to six or seven, if the tug is
10 still attached to the barge.

11 Q Do the tug and barge operate as a single unit for Olympic
12 Tug and Barge?

13 A Sometimes.

14 Q And when -- is there a basis of when they do and when they
15 don't?

16 A Customer requirements. And --

17 Q Do different customers have different requirements on
18 crewing?

19 A Yes, they do.

20 JUDGE SANDRON: Now, when -- when he said required,
21 that -- that's what you would consider -- they don't set the
22 crewing, right, the customers? You determine the crewing based
23 on how you evaluate the -- the customer's needs, or do they
24 specify they want, you know, X number?

25 THE WITNESS: They can. Some customers require a crew

1 complement above and beyond our requirements, and the Coast
2 Guard requirements.

3 JUDGE SANDRON: I see. So -- so it varies?

4 THE WITNESS: It'll vary, yeah.

5 JUDGE SANDRON: I see. About how many contracts all
6 together would you say that you -- for customers, about how
7 many contracts would you say you operate under, approximately?
8 I -- I know you have a lot of areas, but --

9 THE WITNESS: Well that varies. We have a lot of
10 contracts that are long term, but then we have some units that
11 are dedicated to spot charters.

12 JUDGE SANDRON: Oh, I see.

13 THE WITNESS: So they'll do real quick jobs for --

14 JUDGE SANDRON: Oh.

15 THE WITNESS: -- a tremendous amount of customers. But
16 like our core, long-term charters, we probably have, you know,
17 it's Chevron, Shell, P66, BP, Par, World Fuels, TexPar --

18 JUDGE SANDRON: I see.

19 THE WITNESS: -- and that's our core.

20 JUDGE SANDRON: I see. The others are more short-term or
21 periodic?

22 THE WITNESS: Yep.

23 JUDGE SANDRON: Okay.

24 THE WITNESS: It's just the equipment for lease.

25 Q BY MR. HILGENFELD: And when you're talking about -- do

1 you understand what vetting is?

2 A Yes.

3 Q What's vetting?

4 A Vetting, for a customer, it's usually, for an oil major,
5 is a department of individuals that vet our equipment and our
6 policies to see if our policies and equipment are in line with
7 what they require -- with what their requirements are.

8 Q And does the vetting piece go through any crewing --

9 A It does.

10 Q -- requirement?

11 A Yes.

12 Q So if we use customer requirements and vetting, are they
13 somewhat interchangeable?

14 A Can you restate that?

15 Q Are customer requirements vetting somewhat
16 interchangeable?

17 A Yes. Yes, they are.

18 JUDGE SANDRON: Are there any distinctions you would draw
19 between the two, or are they basically synonymous?

20 THE WITNESS: Between the customers?

21 JUDGE SANDRON: Between the terms?

22 MR. HILGENFELD: Between customer requirement and --

23 JUDGE SANDRON: Requirements --

24 MR. HILGENFELD: -- vetting?

25 JUDGE SANDRON: -- and vetting.

1 THE WITNESS: Well, there are customer requirements that
2 are not vetting, but there are customer requirements that are
3 vetting.

4 JUDGE SANDRON: Is -- is there a way you can state what --
5 you know, what --

6 THE WITNESS: What the difference is?

7 JUDGE SANDRON: If -- if there's an easy -- fairly easy
8 way to do it.

9 THE WITNESS: Yes. I think vetting is more along the
10 lines of quality. Like the quality that we can provide for the
11 customers. They'll want to know things like, how long have the
12 crew members been working for you in this area of operation?
13 What are their credentials? What is your maintenance record on
14 the tug? What's your safety record? Have you had any major
15 incidents? What type of incidents? What did you do to correct
16 them? I mean, it just goes on, and on, and on --

17 JUDGE SANDRON: I see.

18 THE WITNESS: -- for years. I mean, we still -- we deal
19 with the quality vetting for the oil majors on a daily basis
20 for contracts that we've had for 15 years.

21 And then other requirements would be, I guess, volume and
22 segregational, you know, whatever you could think of, I guess
23 would be the difference. So --

24 JUDGE SANDRON: I see. More -- let me see if I can get
25 the right term. More specific to the particular barge, you

1 know, the --

2 THE WITNESS: The run, or the terminals, or --

3 JUDGE SANDRON: I see.

4 THE WITNESS: Yes. Finance. Any -- any nuances in the
5 contract. So it would be anything.

6 JUDGE SANDRON: Okay.

7 THE WITNESS: Yeah.

8 JUDGE SANDRON: Well, thank you.

9 THE WITNESS: No problem.

10 Q BY MR. HILGENFELD: Mr. Titland, you mentioned -- how did
11 you speak with Mr. Backe? Was it by phone, by email?

12 A Email.

13 Q And do you recall have any conversations with Mr. Backe?

14 A Yes, it was a while ago, but I believe so. I believe so.

15 Q What do you -- do you recall how you had the conversation
16 with Mr. Backe?

17 A It may have been by phone. I mean --

18 JUDGE SANDRON: Would you recall a specific phone
19 conversation?

20 THE WITNESS: Vaguely, yes.

21 JUDGE SANDRON: Okay.

22 Q BY MR. HILGENFELD: Do you -- where's -- at that point in
23 time, where was Mr. Backe located?

24 A He was located on the fourth floor, directly above me.

25 Q And so that put you on the third floor?

1 A That does, yes.

2 Q Okay. What do you -- do you recall the approximate time
3 frame that you would have spoken with Mr. Backe?

4 A I would say sometime late November -- or late October.

5 Q And --

6 JUDGE SANDRON: 2020?

7 THE WITNESS: 2020, yes, sir.

8 Q BY MR. HILGENFELD: Was it in connection with this bid
9 process?

10 A Yes.

11 Q What -- do you know who initiated the call, or that -- was
12 it in person, on phone, by Zoom? Do you know how you spoke
13 with Mr. Backe?

14 A I believe it was a phone call, and I believe that I
15 initiated it.

16 Q Why did you initiate it?

17 A I -- I needed wage information.

18 Q Okay. Do you recall anything else that Mr. Backe said to
19 you, or anything -- anything else was discussed in that
20 conversation?

21 A No.

22 Q After receiving -- did you receive any information from
23 Mr. Backe?

24 A Yes. He put together an -- an Excel spreadsheet with
25 Olympic Tug and Barge wage averages, and emailed it to me.

1 Q And how did that -- how did you use that information?

2 A Well, it was an average of wages per position. The
3 captains, mates, mate tankermen, so on and so forth, engineers.
4 So I just used the average wage in the equation to come up with
5 the wages of how I would crew the -- the proposed bidded
6 equipment.

7 Q The crewing that you had in L.A./Long Beach, does
8 that -- is that any different than the crewing in other
9 locations for Olympic Tug and Barge?

10 A No.

11 Q If you turn your attention to the next page, Mr. Titland,
12 the L.A./Long Beach tugs? This has -- what is the crew
13 complement that you had proposed on this proposal?

14 A A mate, an unlicensed engineer, and an ordinary seaman.

15 Q And is an ordinary seaman often referred to as a deckhand
16 or a type of deckhand?

17 A Yes.

18 Q And what was your -- who made the decision on the crew
19 complement for the L.A./Long Beach tugs and this proposal?

20 A I did.

21 Q And why did you make this crew complement?

22 A Well, I was trying to create a bid.

23 Q Is this crew complement any different than how OTB
24 operates elsewhere?

25 A No.

1 Q Regarding the calculations, did you perform the
2 calculations in relatively the same manner?

3 A Yes.

4 JUDGE SANDRON: I think it's probably clear on the record,
5 but just to make sure, when you got this -- the -- is this the
6 information that it had, like, for example, on page 4, 6
7 barges. That was supplied to you, that number?

8 THE WITNESS: Yes. Yes, it was.

9 JUDGE SANDRON: Okay. Thank you.

10 MR. HILGENFELD: And Your Honor, just so the record's
11 clear, Respondent's 17 has the number of barges that are --
12 barges or tugs put into the document already.

13 JUDGE SANDRON: Okay. Thank you, yes. I wanted to just
14 make sure that I understood that.

15 Q BY MR. HILGENFELD: Mr. Titland, I want to turn your
16 attention to the next page, page 6, schedule rates for San
17 Francisco.

18 A Okay.

19 Q So in presenting this bid, this one looks a little
20 differently than the L.A./Long Beach bid, why is that?

21 A So L.A./Long Beach is different than San Francisco in
22 regards that L.A./Long Beach is very -- a small harbor and the
23 way that the -- that I structured the crews was that I intended
24 for the crew members to be able to go home after 12 hours in
25 Long Beach. And I structured the crews for San Francisco in

1 regards to everyone living on the tug and not going home for
2 two weeks on and then two weeks off.

3 Q And who made that -- as part of the bid process, was that
4 your decision?

5 A Yes.

6 Q I'm going to turn your attention, Mr. Titland, to the last
7 page of this document.

8 A Okay.

9 Q And what does -- what does the last page of this document
10 show?

11 A Qualifications or exceptions to scope of work.

12 Q And what did you provide?

13 A More or less, the management structure for each area.

14 Q And it looks like it might -- how many dispatchers did you
15 have for San Francisco and L.A.?

16 A Two each.

17 Q Would these be two in both San Francisco and L.A. or two
18 combined?

19 A It would be -- it would be two for both.

20 Q Two total?

21 A Yes, two total, sorry.

22 JUDGE SANDRON: So -- so each one would have a separate
23 dispatcher?

24 THE WITNESS: Yes.

25 MR. HILGENFELD: Thank you.

1 Q BY MR. HILGENFELD: Why did -- why in your management
2 structure, did you combine San Francisco and L.A.?

3 A I just thought that that management complement would be
4 enough to manage that small amount of equipment.

5 Q And the -- what is a riding port captain?

6 A It's a port captain that actually holds a shift on the
7 boat as the captain. So he has additional responsibilities.

8 Q And then, what's meant by wages included in the daily
9 rate?

10 A The riding port captain's wages were included in the rate
11 for the tug.

12 Q So they're already part of the bid process?

13 A Yes.

14 Q And then what's a working tank -- tank barge super?

15 A It's similar to a riding port captain, but it's -- it's a
16 tankerman, not a captain.

17 JUDGE SANDRON: So on page 7, you didn't put it -- if I --
18 if I'm reading it, you didn't put in a bid for the barges in
19 Philly/New York, but you put in for the tugs? Am I -- if I'm
20 reading that right.

21 THE WITNESS: Well --

22 JUDGE SANDRON: I don't want to put words in your mouth,
23 but just from looking at it, because you ha --

24 THE WITNESS: Well, the tankermen are -- are part of the
25 tug crew.

1 JUDGE SANDRON: I see.

2 Q BY MR. HILGENFELD: Were these going to be live a bard --
3 live a barge -- was this a live aboard proposal?

4 A Yes.

5 Q What does it mean to be live aboard.

6 JUDGE SANDRON: Oh, I see.

7 A To live -- what it means to live aboard the tug is --

8 JUDGE SANDRON: I see.

9 A -- you, you know, you get on board and you live. And then
10 that boat moves the barge around 24 hours a day and then you
11 work the barge and come back to the tug and go to bed.

12 JUDGE SANDRON: I see, so you -- so you put it together in
13 the second portion? Or were you going to have any -- you say
14 all tankermen are part of the tug crew. So you included them
15 in the second figure of 20,264?

16 THE WITNESS: Correct.

17 Q BY MR. HILGENFELD: Going back to page 8, Mr. Titland, it
18 talks about describing in detail your experience
19 qualifications. I don't see anything in here regarding
20 experience qualifications. Did you provide that to Ms. Beckman
21 at some other point in time?

22 A No, I do not believe so. I don't recall doing that.

23 Q Why did you not provide that information?

24 A I don't remember.

25 Q How long have you known Ms. Beckman?

1 A She's -- over probably eight years or so, rough guess.

2 JUDGE SANDRON: And let me ask you, on page 8, you have
3 New York would be managed by, and then there's a colon and then
4 it -- right after the San Francisco and Los Angeles would be
5 managed by, and then there's another colon. So --

6 THE WITNESS: I noticed that and I think what I did was,
7 created the top --

8 JUDGE SANDRON: Right.

9 THE WITNESS: -- copied it, pasted it below --

10 JUDGE SANDRON: I see.

11 THE WITNESS: -- and I forgot to erase --

12 JUDGE SANDRON: I see.

13 THE WITNESS: -- that part.

14 JUDGE SANDRON: So actually New York would be managed by
15 starts with the riding port captain and not -- not the two
16 dispatchers?

17 THE WITNESS: Yeah. I just forgot to erase San Francisco
18 and Los Angeles would be managed by -- I forgot to erase that
19 line from the second paragraph.

20 JUDGE SANDRON: Oh, I see. So there would still be
21 dispatchers out of New York?

22 THE WITNESS: Yes. I wanted to manage New York the same
23 as San Francisco and Los Angeles with only the addition of an
24 operations manager.

25 JUDGE SANDRON: Okay, I see. All right. I think that

1 clears it up.

2 Q BY MR. HILGENFELD: And -- and on this, I see that -- the
3 barge ops tank manager has a salary as opposed to be lumped in
4 the daily rate. Do you know -- do you recall the reasoning on
5 that?

6 A I believe that, at the time, I didn't think that due to
7 the size of the New York fleet that it would be possible to
8 have a working tank barge supervisor manage the tank barges and
9 pump the barges. So I shifted him to salary in New York with
10 the idea that he would be more based in the office managing.

11 JUDGE SANDRON: So was that the largest operation of
12 number of locations?

13 THE WITNESS: Of the three, yes.

14 JUDGE SANDRON: I see. So it's larger than San Francisco
15 as well?

16 THE WITNESS: Yeah. At 12 barges and 10 tugs is what I
17 bid on for New York.

18 JUDGE SANDRON: And that's why you thought it needed
19 additional --

20 THE WITNESS: And Seattle is -- is very large and
21 management heavy on the West Coast, so there was extra managers
22 in Seattle to help with the California.

23 Q BY MR. HILGENFELD: Why did you have an operations manager
24 for New York?

25 A I just thought that they needed that over there, due to

1 the size and lack of other managers.

2 Q Prior to submitting this bid, we talked about the work on
3 the West Coast, has Olympic Tug and Barge performed any work on
4 the East Coast, to your knowledge?

5 A Just deliveries.

6 Q And what do you -- when you say deliveries, what types of
7 delivery?

8 A Well, you know, we -- we've delivered tugs and barges to
9 New York and we've gone over and picked up tugs and barges, but
10 we've never done any commercial deliveries. It's always been
11 equipment swaps, I guess you would say.

12 Q Understood. So if you're going to get a tug, you're not
13 putting it in the mail?

14 A Right. Yeah, you have to go get it.

15 Q Mr. Titland, in this bid -- was this bid fully burdened?

16 A If I remember correctly, there was two bids and one -- the
17 first one I submitted was not fully burdened.

18 Q And then if I turn your attention to Respondent's 31 --
19 and this got a little complicated yesterday, but just so the
20 record's clear. This -- this email that this bid went from was
21 GC-230 -- 293 that was sent on October 28th at 2:06 p.m.

22 A I don't know why -- I'm missing 31?

23 Q Oh, you know why? It's because it's in your sheet -- it's
24 probably in your documents. It was not in -- it's not in the
25 notebook, Mr. Titland, it's going to be -- see the documents

1 right beside you. It's either -- the left side is either going
2 to be GC. If you look at the bottom right corner --

3 A Okay.

4 Q -- it should say GC or RSP.

5 JUDGE SANDRON: And you're asking him to look at R-31?

6 MR. HILGENFELD: Correct.

7 JUDGE SANDRON: All right.

8 (Counsel confer)

9 MR. HILGENFELD: Here.

10 JUDGE SANDRON: Right. It looks like this.

11 THE WITNESS: It looks like that, okay.

12 JUDGE SANDRON: It has attachment 7, schedule of rates at
13 the top. Here -- here, so you'll see the number.

14 THE WITNESS: Okay. Yeah, that's not in this file here.
15 Could it be in here, you think?

16 JUDGE SANDRON: Well, you think it's in --

17 THE WITNESS: It's not in this one.

18 MS. YASSERI: Your numbers are on the bottom.

19 THE WITNESS: Yeah. 031.

20 JUDGE SANDRON: Okay.

21 THE WITNESS: There it is.

22 JUDGE SANDRON: Okay, found it?

23 THE WITNESS: Yeah, it was --

24 JUDGE SANDRON: Very good.

25 THE WITNESS: Okay.

1 Q BY MR. HILGENFELD: Mr. Titland, do you have Respondent's
2 31?

3 A Yes, I do.

4 Q Does this look familiar to you?

5 A Yes.

6 Q Is -- is this the revised bid that you presented, or --

7 A Yes.

8 Q So what is the difference between this bid and your prior
9 bid on page 1, the L.A./Long Beach barges?

10 A One big factor that I recall was that the total per day
11 reflects crew wages that are fully burdened. And --

12 Q Did you have an understanding of what fully burdened
13 meant?

14 A Yes.

15 Q And what was your understanding?

16 A Well, there's a daily -- or an hourly rate that's just the
17 wages that a crew member will make, and when you fully burden
18 those wages, it means that you add benefits and 401k, vacation
19 and things of that nature to the wage.

20 JUDGE SANDRON: So that's the full compensation package
21 basically?

22 THE WITNESS: Yep.

23 Q BY MR. HILGENFELD: I also noticed that you changed the
24 language if you compare Respondent's Exhibit 20 with 31. So if
25 you look in your notebook on 20 and just compare the two.

1 A Under the schedule of rates?

2 Q Correct. And you go to page 4.

3 A Okay.

4 Q In Respondent's Exhibit 20, page 4, the crewing
5 description is different than it is on Respondent's Exhibit 31,
6 page 1; do you see that?

7 A Yes.

8 Q What was your thinking in revising to Respondent's Exhibit
9 31?

10 A Well, if -- if we were really slow then -- then the total
11 per day would go down, obviously, because the barges would be
12 sitting around, they wouldn't be pumping, so. I just wanted to
13 put that little note in there to clarify that that number may
14 vary depending on the amount of work.

15 Q How did that description change your barge daily rate, if
16 you recall?

17 A I -- I don't recall.

18 Q In issuing that revision -- who's decision was it to make
19 that revision to this document, Respondent's Exhibit 31?

20 A That was me.

21 Q I'm going to have you turn your attention to Respondent's
22 Exhibit page 2.

23 JUDGE SANDRON: Is -- is that --

24 MR. HILGENFELD: Respondent 31, page 2, excuse me. Thank
25 you.

1 Q BY MR. HILGENFELD: And what was the change in this
2 revision from you, Mr. Titland?

3 A I added a little more clarity on the amount of people.
4 And I added captains. And I added an operations manager
5 salary.

6 JUDGE SANDRON: What did you mean by the five captains
7 needed are not included in this bid? Do you know what you were
8 referring?

9 THE WITNESS: Well, I was following -- there's an email
10 that described what I did incorrectly on the first bid and
11 what -- who'd like to be seen on this bid.

12 Q BY MR. HILGENFELD: Who sent that email to you.

13 A Jennifer.

14 Q And was -- were your changes in response to what she'd
15 asked you?

16 A Yes.

17 Q And how many captains per tug did you bid?

18 A One captain per tug.

19 Q And for this bid, L.A./Long Beach, you did not include
20 those on the bid; did I read that correct?

21 A Correct.

22 Q On page 3 of Respondent's Exhibit 31, what changed --
23 is -- is there anything more than the burden rate that changed
24 in this bid?

25 A No.

1 Q And in page 4, schedule rates for New York on Respondent's
2 Exhibit 31. And what changed on this bid?

3 A I just provided more information and fully burdened.

4 JUDGE SANDRON: Was there a reason that you have the -- on
5 your amended bid, you have, the captain's not included in the
6 bid for L.A./Long Beach and San Francisco, but it appears for
7 Philly/New York, you included the captains being fully
8 burdened; do you know why that was different?

9 THE WITNESS: It was what was asked of me --

10 JUDGE SANDRON: I see.

11 THE WITNESS: -- by Jennifer Beckman.

12 JUDGE SANDRON: And do you recall why a distinction was
13 made between the captains being fully burdened in one location
14 and not the others, if you remember?

15 THE WITNESS: I don't think that anywhere on here there's
16 captains included in the bid that are not fully burdened. It's
17 just either no captains --

18 JUDGE SANDRON: Okay.

19 THE WITNESS: -- or captains. And the captains that are
20 in here are fully burdened.

21 JUDGE SANDRON: Oh, I see. So -- oh, okay I -- I see what
22 you mean. So the -- so you didn't provide for captains in
23 L.A./Long Beach or San Francisco, but you did provide for them
24 in the Philly/New York?

25 THE WITNESS: Yes.

1 Q BY MR. HILGENFELD: After submitting this revised bid, did
2 you revise your bid at any other point that you remember?

3 A No.

4 Q Did you ultim -- ultimately receive any communications
5 from anyone regarding the bid that you did receive for the bid
6 you did present?

7 A Ultimately, yes.

8 JUDGE SANDRON: Well, now, you got -- you got to say yes.

9 THE WITNESS: Yes. Sorry.

10 JUDGE SANDRON: I don't know -- we kind of like halfway
11 between a yeah and a yes, but --

12 THE WITNESS: Yes, yes, so Y-E-S.

13 JUDGE SANDRON: I wasn't sure if I got it right, so just
14 to remind you.

15 THE WITNESS: I apologize.

16 Q BY MR. HILGENFELD: I'm going to turn your attention to
17 Respondent's Exhibit 25, that I think is in your notebook, but
18 it may not be.

19 A Yes, I have 25.

20 Q Do you recognize Respondent's Exhibit 25, page 1?

21 A Yes.

22 Q And what is Respondent's Exhibit 25?

23 A It is a -- a letter concerning bids within acceptable
24 range.

25 Q And is this a letter that you received?

1 A Yes.

2 JUDGE SANDRON: Was it -- was it ever explained to you
3 what that meant within acceptable range? Did you ever get an
4 explanation of what that meant?

5 THE WITNESS: No. I just kind of figured that it meant
6 that it was within whatever range someone deemed it to be, I --
7 I didn't know.

8 Q BY MR. HILGENFELD: Did you know what work was being bid
9 in L.A.?

10 A I did not, no.

11 Q At that time, did you know what work was being bid for San
12 Francisco?

13 A No.

14 Q At that time, did you know what work was being bid for in
15 New York/Philadelphia?

16 A No.

17 Q Did you have an understanding of whether you were required
18 to submit a revised bid to this, your initial one?

19 A No.

20 Q Did you ever submit any additional bids after the two that
21 we reviewed?

22 A No.

23 Q From when you received the invitation to bid to the
24 issuance and the letter on November 9th, 2020, do you recall if
25 you spoke with Jen Beckman about this bid process?

1 A No, I don't believe we did.

2 Q Do you know how you knew to get ahold of Mr. Backe?

3 A Well, I -- he just has that information. I -- I'm aware
4 of that. He tracks crew wages and I just knew that he would be
5 the guy to talk to.

6 Q Prior to submitting this bid, did you know who Mr. Backe
7 was?

8 A Yes.

9 Q Had you worked with Mr. Backe before on other cost
10 financial issues?

11 A Yes.

12 JUDGE SANDRON: That was yes?

13 THE WITNESS: Yes. Did I say -- did I say something
14 different? I don't --

15 JUDGE SANDRON: I don't know.

16 MR. HILGENFELD: You're a light speaker.

17 THE WITNESS: I'm sorry. I'll speak up, how about that.

18 JUDGE SANDRON: Okay.

19 THE WITNESS: Okay.

20 JUDGE SANDRON: So I can hear you well, thank you.

21 THE WITNESS: No problem.

22 JUDGE SANDRON: Maybe it's my hearing. Did everybody else
23 hear yes.

24 MS. YASSERI: Faintly.

25 JUDGE SANDRON: Faintly, okay. That -- that's -- okay.

1 Then you're doing fine, don't worry about it.

2 THE WITNESS: I'll speak up.

3 Q BY MR. HILGENFELD: Mr. Titland, from the time that you
4 received the bid to this letter on November 9th, 2020, aside
5 from Mr. Backe, do you recall speaking with anyone about this
6 bid process?

7 A No.

8 Q Prior to submitting your bid, did you have any knowledge
9 or information as to any other bids that companies may be
10 presenting?

11 A No.

12 Q Did you ever have any knowledge as to what other bids
13 companies were presented?

14 A No.

15 Q At this point in time, did you speak to Mr. Godden
16 regarding any of this bid process?

17 A No.

18 Q After you received the November 9th letter, I believe you
19 testified that you did not submit another bid; is that correct?

20 JUDGE SANDRON: All right. Be careful not to --

21 Q BY MR. HILGENFELD: Did you -- did you submit another bid
22 after November 9th?

23 A No.

24 Q When was the next communication you had with anyone
25 regarding this bid process?

1 A I received a letter on December 9th.

2 Q Turn your attention to GC-136 and it should be in the pile
3 of papers to your left.

4 A You said 136 or --

5 Q 1-3-6.

6 A Oh, okay. Okay.

7 Q Do you recognize GC Exhibit 136?

8 A Yes.

9 Q What is GC Exhibit 136?

10 A It's a letter -- a letter that states that my bid was
11 accepted for L.A./Long Beach and -- for L.A./Long Beach.

12 Q Mr. Titland, when you received this letter for L.A./Long
13 Beach, was this the letter that you referenced before about
14 communications from Ms. Beckman?

15 A Yes.

16 Q And how did you receive this letter?

17 A As an attachment to an email.

18 Q From November 9th to receiving this letter, had you had
19 any communications with Ms. Beckman regarding the bid process?

20 A No.

21 Q Had you had any communications with anyone regarding this
22 bid process?

23 A No.

24 Q When you received this letter, it states that the tug and
25 barge crewing in Los Angeles/Long Beach will start on January



1 29th, 2021. Did you have an understanding of what work that
2 meant?

3 A No.

4 Q What was your -- what -- how -- how did you -- when you
5 received this, what did -- what did you understand you'd been
6 awarded?

7 A Just what the letter says.

8 Q Did you have any specific understanding?

9 MS. YASSERI: Objection. Asked and answered.

10 JUDGE SANDRON: Yeah, I think he's already answered the
11 question. Do you -- do you need a drink?

12 THE WITNESS: I'm okay, thank you.

13 JUDGE SANDRON: All right.

14 Q BY MR. HILGENFELD: After receiving this bid, what did you
15 do next regarding the bid process?

16 A Well, I was very curious -- I don't know why, sorry,
17 excuse me. I was very curious as to what the work entailed, so
18 I called Ms. Beckman.

19 Q Approximately when do you believe you -- well, I guess,
20 was it a phone conversa -- phone call?

21 A Yes.

22 Q Who initiated the phone call?

23 A Excuse me.

24 MR. HILGENFELD: May I approach, Your Honor?

25 JUDGE SANDRON: Yes. Oh, I thought -- we sent you some

1 water. Okay.

2 THE WITNESS: Thank you.

3 JUDGE SANDRON: I saw that bottle over there.

4 MR. HILGENFELD: Yeah. Not the right time in the world to
5 be drinking other people's water.

6 JUDGE SANDRON: I was going to say -- somebody left it
7 there, I gather.

8 THE WITNESS: Okay. Let's give that a try.

9 MR. HILGENFELD: That one's all yours now.

10 THE WITNESS: Thank you. You don't want it back?

11 JUDGE SANDRON: We can get Mr. Hilgenfeld a little bottle
12 if you're thirsty.

13 Q BY MR. HILGENFELD: Mr. Titland, where were you, if you
14 recall, when you called Ms. Beckman?

15 A I don't recall, but I mean I work in Seattle, I'm there
16 every day. So I would -- Seattle.

17 Q Did you have an understanding of where Ms. Beckman was
18 when you called?

19 A I didn't know, no.

20 Q Was anyone else on the call when you called?

21 A No.

22 Q Do you approxi -- do you know approximately when you spoke
23 with Ms. Beckman?

24 A I don't. It would have been normal work hours though.

25 Q Do you recall approximately how much later it was from

1 December 9th?

2 A It was fairly soon after. I don't remember exactly, but I
3 would say within a matter of days.

4 Q What did you say in that phone conversation?

5 A I said, Jennifer what's going on, what is this? Do you
6 know anything about this? And you know, I had heard rumors of
7 us looking at some Foss equipment -- looking to purchase some
8 Foss equipment in California. And I had heard that that
9 equipment was under Chevron contract, so I asked Jennifer just
10 straight up, is this in -- you know, are the rumors true that
11 we're looking at purchasing some Foss equipment under Chevron
12 contracts and she said yes, that she had heard that as well.

13 Q Do you recall if Ms. Beckman said anything else?

14 A Well, I think I -- I asked her, you know, is -- is that
15 this work? Are we -- is Olympic Tug and Barge being awarded
16 that work and she said she didn't know.

17 Q And what do you mean by that work?

18 A I mean, the -- the Foss equipment that we were looking at
19 that was under Chevron contracts.

20 JUDGE SANDRON: So -- so she said that she'd heard the
21 same rumor basically, but she didn't know for sure.

22 THE WITNESS: She confirmed to me that we were indeed
23 looking at --

24 JUDGE SANDRON: Oh looking at.

25 THE WITNESS: -- at some equipment --

1 JUDGE SANDRON: I see.

2 THE WITNESS: -- to purchase that Foss owned in
3 California.

4 JUDGE SANDRON: I see.

5 THE WITNESS: She did confirm that, but she didn't confirm
6 that the work was going to come to Olympic Tug and Barge.

7 JUDGE SANDRON: I see.

8 Q BY MR. HILGENFELD: Did -- was there a conversation
9 regarding anything -- other types of work aside from Chevron
10 work?

11 A No.

12 Q Do you recall anything else about that conversation?

13 A No.

14 Q Approximately how long was that conversation?

15 A Well, I want to say it was fairly short. I -- I don't
16 know though.

17 Q After that conversation, what did you do next as it
18 related to the bid process or the bid let -- letter?

19 A Well, I called Matt Godden.

20 Q Why did you call Matt Godden?

21 A Because if Jennifer didn't know if Olympic Tug and Barge
22 was going to get awarded the work, then I thought for sure that
23 Matt might know. I needed to know if that particular work was
24 in relation to the bid that was awarded to OTB.

25 Q And when you say that work, what do you mean?

1 A The Chevron/Foss equipment purchase.

2 Q And approxi -- and did you end up speaking with Mr.
3 Godden?

4 A I did, yes.

5 Q Do you remember when you spoke with Mr. Godden?

6 A It would have been after my conversation with Jennifer. I
7 don't remember exactly when, but fairly shortly after.

8 Q Do you recall the month and the year?

9 A That would have been December. Probably the second week
10 of December of 2020.

11 Q Do you know if that conversation occurred on the phone, in
12 person, by Zoom or in what manner?

13 A You know, I don't. I talk to Matt Godden a -- often.
14 I -- I don't recall.

15 Q And where -- where's Mr. Godden's office at?

16 A He's on the fourth floor.

17 Q In Seattle, Washington?

18 A In Seattle, yes.

19 Q Was anyone else present during that conversation?

20 A Not that I recall.

21 Q What do you recall asking Mr. Godden?

22 A If Olympic -- if -- well, first of all, I verified that we
23 were looking at purchasing some Foss equipment that was under
24 Chevron contracts. He said yes. And then I asked him, if we
25 do acquire the work, is it going to be assigned to Olympic Tug

1 and Barge. And he said yes.

2 Q When Mr. Godden said he was looking at equipment from
3 Foss, what did you understand him to mean?

4 A Negotiating with Foss on a purchase.

5 Q Do you know if Foss has a parent company?

6 A I do.

7 Q And who's that?

8 A Saltchuk.

9 Q Do you -- did you respond to Mr. Godden when he told you
10 that information?

11 A Yes, yes.

12 Q What did you say?

13 A I -- I told him that I would love the opportunity to
14 utilize that equipment and grow Olympic Tug and Barge. I was
15 excited.

16 Q And what equipment are you referring to?

17 A The -- the Foss barges that were under Chevron contracts
18 in the state of California.

19 Q Why did you want that -- why did you want that equipment?

20 A Well, Olympic Tug and Barge is my company and I want to
21 see us grow and succeed.

22 Q Was there any conversation with Mr. Godden during that
23 call regarding any other companies or contracts?

24 A No.

25 MS. YASSERI: Objection. Leading.

1 MR. HILGENFELD: It wasn't leading.

2 JUDGE SANDRON: Well, I think you used a --

3 MS. YASSERI: You asked, what else do you recall.

4 JUDGE SANDRON: Right. I think you have to exhaust --

5 MR. HILGENFELD: Well, I -- I can -- I -- I don't. Okay.

6 Q BY MR. HILGENFELD: Do you recall anything else in that
7 conversation?

8 A No.

9 Q Do you recall any conversation --

10 JUDGE SANDRON: Although, I guess you're not really --

11 MR. HILGENFELD: I'm asking specifically, was there any
12 conversation regarding a specific person. That is not a
13 leading question.

14 JUDGE SANDRON: All right. Go ahead.

15 MS. YASSERI: You asked about topics. You didn't ask
16 about a specific person. You -- you asked about --

17 JUDGE SANDRON: Well, I -- I think you're not -- if you're
18 going to ask him further questions about a conversation that he
19 can't -- when he doesn't have a recall this is, I guess
20 appropriate.

21 MR. HILGENFELD: Well --

22 JUDGE SANDRON: Go ahead.

23 Q BY MR. HILGENFELD: Was there any conversation regarding
24 Glencore in that meeting?

25 A No.

1 Q Was there any conversation regarding Minerva in that
2 meeting?

3 A No

4 Q Was there any conversation regarding Peninsula in that
5 meeting?

6 A No.

7 Q Was there any conversation regarding any other work in the
8 California area aside from Foss?

9 A No.

10 Q After you spoke with Mr. Godden, did you -- what steps did
11 you take with the information he provided to you?

12 A I -- I did some research on the barges that -- that we
13 were negotiating on. So I looked them up online and looked at
14 the size and the length and any documentation I could get ahold
15 of and photographs and -- I mean, I just did everything I could
16 to try and wrap my mind around how all of this was going to
17 work if it did come to pass.

18 Q And --

19 JUDGE SANDRON: Did he give you any kind of idea of a time
20 frame talking about this was in -- in progress? Did he give
21 you any kind of idea of when it would be accomplished if it
22 went through?

23 THE WITNESS: No, no.

24 Q BY MR. HILGENFELD: When you said looking at those barges,
25 what company's barges were you looking at?

1 A Foss.

2 Q Did you have an understanding in your research of whether
3 these were coastal barges or inland barges?

4 A Inland. I think that once we acquired them, we found out
5 that maybe -- I -- one or two of them are able to go offshore
6 by the Coast Guard, but at the time, it was all -- I was
7 assuming inland -- inland equipment.

8 Q And did you have -- what else did you do in thinking about
9 the possibility of performing work for Foss -- or the -- the
10 Chevron work?

11 A Well, I started to think about the idea of creating
12 another company down in California that was a subsidiary of
13 Olympic Tug and Barge.

14 Q And why was that?

15 A Well, there's a bunch of reasons, but I needed to define
16 my coastal fleet to exclusive inland fleet. The -- the pe -- I
17 needed to absorb all of the -- as many crew members as I could
18 from Foss along with the company -- or the equipment. And in
19 order to do that, because they were all primarily inland
20 credentialed mariners that live local in San Francisco and Los
21 Angeles, I -- I didn't want to comingle them with Olympic Tug
22 and Barge offshore equipment. It was a recruitment tactic and
23 a dividing line between inland and offshore.

24 Q Did you speak with anyone regarding this idea?

25 A I have a -- at the time, I had a operations team that I

1 worked with and I kicked around ideas with them.

2 Q Who was on your operations team?

3 A A gentleman named Byron Peterson and David Hanshaw.

4 Q Do you know what Mr. Peterson's position was at that time?

5 A He was director of West Coast barge operations.

6 Q Do you know what company?

7 A Olympic Tug and Barge.

8 Q Do you know what Mr. Hanshaw's position was at that time?

9 A He was a barge supervisor.

10 Q For what company?

11 A Olympic Tug and Barge.

12 JUDGE SANDRON: Do you have the spellings of those?

13 MR. HILGENFELD: I'm not sure we do. I believe it's

14 Byron, B-Y-R-O-N, Peterson, P-E-T-E-R-S-O-N. And then David,

15 D-A-V-I-D, and then Hanshaw, I believe is H-A-N-S-H-A-W.

16 JUDGE SANDRON: Is that right?

17 THE WITNESS: That's correct, yes.

18 JUDGE SANDRON: Thank you.

19 MR. HILGENFELD: No problem.

20 Q BY MR. HILGENFELD: Do you recall -- do you recall when

21 you -- well, I guess did you speak with Mr. Peterson and Mr.

22 Hanshaw in tandem or separately or what do you recall?

23 A Well, I think it was all of the above. I mean, those

24 guys -- they're like my right and left hand so -- I'm with them

25 all the time. I talk to them 24 hours a day, seven days a

1 week. I'm sure it was every -- you know, tandem, alone.

2 Q What do you recall Mr. Peterson saying, if anything,
3 regarding the idea of forming a new company?

4 A Well, everyone was a little excited, but yet kind of
5 nervous. I don't remember anything specific.

6 Q Do you -- do you remember anything from Mr. Hanshaw?

7 A The same.

8 Q Regarding the sale, when was the next piece of
9 information -- or not the sale, regarding the bid process in
10 general, what was the next piece of information you had or
11 learned?

12 A December 28th was when I learned that the sale went
13 through and that we acquired the barges and that we were going
14 to have to attempt to get the contracts with them.

15 Q What do you mean by that?

16 A Well, you know, Chevron is a -- is a company and they
17 don't own the barges. So it was up to Chevron whether or not
18 they wanted to use us and the barges at all. So they have a --
19 a vetting, you know, procedure that they have to go through
20 that's fairly extensive.

21 Q How did you learn about the December 28th acquisition?

22 A Well, it was known, I -- I -- if I recall, it was like a
23 press release and, you know, we started holding meetings and --
24 it was just known. I think the press release, but people were
25 talking about it, you know.

1 Q When did you next hear about Olympic Tug and Barge in any
2 connection with the Chevron contract?

3 A You know, at some point, I think it might have been the
4 first week of January, I approached Matt Godden and told him
5 that I -- you know, I really strongly would like to start up a
6 subsidiary company of OTB down in California. And I don't -- I
7 don't remember the time frame, but he agreed to -- to that at
8 some point. And then -- and then I told him that I wanted to
9 use this subsidiary as a -- the inland company to operate the
10 Foss barges under Chevron.

11 JUDGE SANDRON: Do you remember specifically where you
12 were when you spoke to him?

13 THE WITNESS: No. I mean, I talk to Matt probably every
14 day and he works in Seattle like I do. We see each other in
15 meetings and talk on the phone and run into each other at
16 lunch, so it's hard for me to -- to say. And it was kind of
17 the talk, you know.

18 JUDGE SANDRON: But do you remember seeing him in person
19 when you talked -- that conversation or you're not sure?

20 THE WITNESS: I'm not sure. I do talk with him quite
21 often in person. I would say more so on Zoom, so. I -- I
22 can't say.

23 JUDGE SANDRON: All right. Was anybody else around when
24 you spoke to him?

25 THE WITNESS: Not that I recall.

1 Q BY MR. HILGENFELD: Did -- was anything discussed
2 regarding Olympic Tug and Barge and the Chevron work?

3 A Well, I told him that I would like to use the subsidiary
4 of Olympic Tug and Barge to do the Chevron/Foss equipment --
5 ex-Foss equipment work.

6 Q And how did Mr. Godden respond?

7 A He said that'd be fine.

8 Q Do you recall -- was there a discussion regarding any
9 other California work during that conversation?

10 A No.

11 Q How long was that conversation, to the best of your
12 recollection?

13 A It would have been fairly short. I don't recall though.

14 Q Do you recall -- and at that point, you talked about work
15 that needed to be done for Chevron and the vetting process.
16 Who was involved with the vetting process with Chevron?

17 A It was the operations team, but a gentleman named Rob
18 Sorter, was going to be in charge of Chevron. He was the
19 Chevron handler for the vetting -- just trying to get Chevron
20 to agree to use us for the work, basically, through the vetting
21 process.

22 JUDGE SANDRON: And who did he -- for whom did he work?

23 THE WITNESS: He was an Olympic Tug and Barge employee.

24 JUDGE SANDRON: Do we have that spelling in the record?

25 MR. HILGENFELD: I believe it's S-O-R-T-E-R.

1 JUDGE SANDRON: So he was the contact point for OTB?

2 THE WITNESS: Uh-huh. He was the -- he was -- yes, he
3 was.

4 JUDGE SANDRON: All right. I should say the
5 representative of OTB for dealing with Chevron.

6 THE WITNESS: Yep, for dealing with Chevron vetting.

7 Q BY MR. HILGENFELD: And you'd mentioned the ops team, is
8 that -- are those the same two individuals, Mr. Hanshaw and Mr.
9 Peterson as well?

10 A Yes.

11 Q Aside -- okay. What was involved in that vetting process
12 with Chevron?

13 A Oh man, it was brutal, really. It's just very extensive.
14 They go through all of our policies and procedures and they
15 look at any injuries or incidents going back years. They look
16 at equipment maintenance and we have like a -- a computer-based
17 maintenance system where we track any work that we do to the
18 boats. So they dug back years on -- on all of that. And with
19 other equipment that wasn't even on -- going on charter with
20 Chevron. They wanted to look at us as a company, not the
21 equipment that they wanted to use. So they dug into every
22 little nook and cranny that -- that they could.

23 Q When you say us as a company, who are you referring to?

24 A Olympic Tug and Barge.

25 Q How long did that initial vet -- vetting process take?

1 A Before they agreed? That's a good question, I don't
2 recall, but it was -- it seemed like forever. I think it was
3 probably -- I want to say around a month.

4 Q You mentioned you had the conversation with Mr. Godden you
5 just referred. Did you have any other conversations with Mr.
6 Godden regarding work in California?

7 A Eventually yes, later that month I did.

8 Q And what do you -- approximately when you do recall having
9 that conversation with Mr. Godden?

10 A It would have been the third or the fourth week of January
11 of 2021.

12 JUDGE SANDRON: To clarify, did you -- do you recall one
13 conversation or do you think there might have been more than
14 one in a month, at that time.

15 THE WITNESS: One specifically that stands out to me.

16 JUDGE SANDRON: All right. Counsel can cover it.

17 Q BY MR. HILGENFELD: And where -- where were you -- do you
18 know when that specific conversation you're talking about. Do
19 you know if that was in person, by phone, by Zoom?

20 A I believe this one was in person in Seattle.

21 Q Do you recall if anyone else was present?

22 A I don't believe anyone was.

23 Q Do you recall -- I'm assuming you were at the Centerline
24 office, is that assumption correct?

25 A That's correct.

1 Q Do you recall where in the Centerline office building
2 site?

3 A I think it was in the kitchen.

4 JUDGE SANDRON: Do you remember the time that it took
5 place?

6 THE WITNESS: I don't.

7 JUDGE SANDRON: So what hours are you normally at the
8 location?

9 THE WITNESS: I am -- well it varies because we have
10 incidents and things that keep me up at night, but typically I
11 get to work at 7 and leave at around 4 or 5.

12 Q BY MR. HILGENFELD: And what -- who -- do you know who
13 initiated this conversation?

14 A Matt did.

15 Q What do you recall Matt -- Mr. Godden saying?

16 A That Olympic Tug and Barge was going to be taking over the
17 Glencore work in L.A./Long Beach.

18 Q How did you respond?

19 A I told him I was excited.

20 Q Do you recall saying anything else?

21 A No.

22 Q Was there any conversation regarding Leo Marine in that
23 conversation?

24 A I -- I did tell him that I intended to use Leo Marine for
25 the inland portion of the Glencoe work in L.A./Long Beach.

1 Q Did you understand there was -- there was also coastal
2 Glencore work?

3 A Yes.

4 Q And who was going to be performing the coastal Glencoe
5 work?

6 A Olympic Tug and Barge.

7 Q And why did you want that distinction?

8 A Well, Leo -- Leo's equipment cannot transit coastal, only
9 Olympic Tug and Barge can do the coastal work.

10 Q When did you first hear mention of the Glencore work?

11 A From Matt that day.

12 Q Prior to that, had you had any conversations with Mr.
13 Godden regarding the Glencore work in California?

14 A No.

15 Q Had you had any conversations with Ms. Beckman regarding
16 the Glencore work in California?

17 A No.

18 Q Had you had any conversations with Mr. Houghton or anyone
19 else regarding the Glencore work in California?

20 A No.

21 Q And I apologize if you said this, how did Mr. Godden
22 respond when you said you intended to use Leo Marine for the
23 inland work?

24 A He said that's fine.

25 Q After -- approximately how long did this conversation

1 last?

2 A It was fairly short.

3 Q After that conversation, did you -- was there any
4 conversation about when work would be performed, as well, in
5 L.A.?

6 A No. Not during that conversation.

7 Q After that conversation, did you ultimately receive a
8 letter from Mr. Godden?

9 A Yes.

10 Q I turn your attention to Respondent's Exhibit 34.

11 A I'm missing that one. Is it --

12 JUDGE SANDRON: I don't think it's in the book.

13 MR. HILGENFELD: 34.

14 JUDGE SANDRON: Maybe it's -- I don't think it's in my
15 book either.

16 MR. HILGENFELD: I apologize.

17 JUDGE SANDRON: Do you want to go off the record for a
18 minute?

19 MR. HILGENFELD: Please, Your Honor, thank you.

20 JUDGE SANDRON: Off the record.

21 (Off the record at 2:26 p.m.)

22 JUDGE SANDRON: Back on the record. We have readily
23 available General Counsel Exhibit 138, which the witness now
24 has before him.

25 MR. HILGENFELD: Thank you, Your Honor. Thank you,

1 counsel.

2 Q BY MR. HILGENFELD: Mr. Titland, do you have General
3 Counsel's Exhibit 138 in front of you?

4 A Yes.

5 Q And what is General Counsel 138?

6 A It's a letter from Matt Godden to me.

7 Q Do you know if your conversation with Mr. Godden in the
8 kitchen occurred before or after receiving this letter?

9 A Before.

10 Q And what was your understanding of the work that Olympic
11 Tug and Barge was to be performing in L.A./Long Beach?

12 A Prior to the conversation I had or --

13 Q When you received this letter.

14 A Oh. It was going to be the Chevron contracts with the
15 newly acquired Foss barges and Glencore.

16 Q There's a con -- a second paragraph here about mutual
17 discussions related to delaying the start time to February
18 28th, 2021; do you see that?

19 A Yes.

20 Q Do you recall if you had any conversations?

21 A I don't recall.

22 Q And --

23 JUDGE SANDRON: Were you the one who proposed delaying the
24 start because it says, "we are agreeable to delay"? Do you
25 recall if you initiated that discussion about the delay?

1 THE WITNESS: I believe -- I don't --

2 JUDGE SANDRON: If you can recall.

3 THE WITNESS: That was not me.

4 JUDGE SANDRON: Okay. All right.

5 Q BY MR. HILGENFELD: And do you recall where the vetting
6 process was at with Glencore -- or not with Glencore, but with
7 Chevron at the end of January of 2021?

8 A I don't recall specifically, I know that it was still in
9 process.

10 Q After receiving this letter, I guess prior to receiving
11 this letter, had you had any communications with Matthew Godden
12 regarding performing Minerva work in L.A./Long Beach at any
13 point in time?

14 A No.

15 Q Prior to receiving this letter, had you had conversations
16 with Mr. Godden regarding performing Peninsula work in
17 L.A./Long Beach at any point in time?

18 A No.

19 Q Did you have conversations with anyone about OTB or Leo
20 Marine performing Minerva work in L.A./Long Beach prior to this
21 time?

22 A No.

23 Q Prior to receiving this letter, had you had any
24 conversations with anyone about performing Peninsula work in
25 L.A./Long Beach?

1 A No.

2 Q Has OTB or Leo Marine, to your knowledge, performed any
3 work under a long-term time charter with Peninsula in L.A./Long
4 Beach?

5 A Has -- can you restate that, sir?

6 MS. YASSERI: Objection. Compound.

7 JUDGE SANDRON: Yeah, maybe you want to --

8 MR. HILGENFELD: Fair enough.

9 JUDGE SANDRON: -- break it up.

10 Q BY MR. HILGENFELD: In -- in 2020 and 2021, do you have
11 knowledge of Olympic Tug and Barge having a long-term time
12 charter with Peninsula to perform work in L.A./Long Beach?

13 A No.

14 Q In 2020 and 2021, do you have any knowledge about Leo
15 Marine performing work under a long-term charter with Peninsula
16 in L.A./Long Beach?

17 A No.

18 Q In 2020 and 2021, do you have any knowledge of Olympic Tug
19 and Barge performing time charter contracts in L.A./Long Beach
20 with Minerva?

21 A No.

22 Q In 2020 and 2021, do you have any knowledge or information
23 about Leo Marine performing work under a long-term time charter
24 for Minerva in L.A./Long Beach?

25 A No.



1 Q Mr. Christenson (phonetic throughout), I'm going to change
2 topics on --

3 MS. YASSERI: He's Titland.

4 MR. HILGENFELD: That's -- that was a bad one. That might
5 be the worst one yet, Sven's predecessor was Sven Christenson.
6 I apologize -- that my big --

7 THE WITNESS: That's all right. That's okay.

8 MR. HILGENFELD: -- I married Jen off to Matt Godden, so.

9 Q BY MR. HILGENFELD: Mr. Titland, when did Leo Marine start
10 operating tank barge work in L.A./Long Beach?

11 A February 28th of 2021.

12 Q Do you know if Leo Marine Services had acquired a time
13 charter from Phillips 66?

14 A We had, yes.

15 Q Where was the Phillips 66 charter?

16 A In San Francisco.

17 Q And when did Leo Marine start performing that work?

18 A Early February of 2021.

19 Q When did Leo Marine begin performing the Chevron work in
20 San Francisco?

21 A February 28th, 2021.

22 Q Regarding L.A./Long Beach, when did Leo begin performing
23 the Chevron work in L.A./Long Beach?

24 A February 28th, 2021.

25 Q And in L.A./Long Beach, when did Leo Marine begin

1 performing the Glencore work?

2 A February 28th, 2021.

3 Q You had mentioned that Olympic Tug and Barge has
4 historically performed all three types of terminal transfer
5 works, performance works, in California. I'm going to focus on
6 each one, ask you some general questions, Mr. Titland. As it
7 relates to bunkering work, what ty -- has there been any change
8 in the Olympic Tug and Barge bunkering work in L.A./Long Beach
9 since Leo Marine was formed?

10 A Can you restate that, I'm sorry?

11 Q Sure. I guess we'll -- we'll go back. Has Olympic Tug
12 and Barge performed bunkering work in L.A./Long Beach Harbor,
13 historically?

14 A Yes.

15 Q Has -- have you seen a change in the amount of bunkering
16 work that Olympic Tug and Barge has performed since Leo Marine
17 was formed?

18 A I would say that Leo Marine does, you know, a majority of
19 the bunkering work in L.A./Long Beach and with them being there
20 and available, then they would do it and not Olympic Tug and
21 Barge.

22 Q Has that resulted in a decrease to Olympic Tug and Barge?

23 A Yes.

24 Q As it relates to -- are you -- are there -- are you
25 familiar with the term cross harbor terminal tr -- terminal --

1 cross harbor terminal to terminal transfer?

2 A Yes.

3 Q And what's that?

4 A Well, terminal transfer would be terminal to terminal.
5 And cross harbor would be not offshore. So inland terminal
6 transfer.

7 Q So you don't go into the coastal waters if you're doing a
8 cross harbor?

9 A Correct. Inland.

10 Q Inland. How -- when you're talking about cross harbor
11 terminal to terminal transfers in Los Angeles, how long has
12 Olympic Tug and Barge performed that work?

13 A Since well before I've been working at Olympic Tug and
14 Barge.

15 Q Since Leo Marine has formed, have you noticed a change in
16 cross harbor terminal to terminal -- terminal to terminal
17 transfers for Olympic Tug and Barge?

18 A I would say it's decreased.

19 Q Has Olympic Tug and Barge historically performed
20 lightering in the L.A./Long Beach Harbor?

21 A Yes.

22 Q Has Olympic Tug and Barge noticed a change in lightering
23 since Leo Marine was formed?

24 A Yes, on the -- I would say so, yes.

25 Q And what's that change?

- 1 A Probably a decrease.
- 2 Q Does Olympic Tug and Barge still continue to perform
3 bunkering, cross harbor terminal transfers, and lightering in
4 L.A./Long Beach Harbor?
- 5 A Yes.
- 6 Q Mr. Titland, does Olympic Tug and Barge have its own
7 business ID?
- 8 A Yes.
- 9 Q Does Olympic Tug and Barge maintain its own books and
10 records?
- 11 A Yes.
- 12 Q Does Olympic Tug and Barge responsible for profit and
13 losses?
- 14 A Yes.
- 15 Q Who's responsible for Olympic Tug and Barge's profit and
16 losses?
- 17 A I am.
- 18 Q Who maintains the financial recordkeeping for Olympic Tug
19 and Barge?
- 20 A The finance department.
- 21 Q And who's that with?
- 22 A Olympic Tug and Barge -- Centerline Logistics.
- 23 Q Which one is it?
- 24 A Centerline Logistics.
- 25 Q I know it's late in the day on a Friday.

1 A Sorry.

2 Q Mr. Titland, I believe earlier, you had mentioned that
3 part of your job duties was assisting in hiring. Who assists
4 you in hiring?

5 A David Hanshaw and Byron Peterson and a gentleman named
6 Jaime Sandige.

7 Q Who does Jaime -- Jaime Sandige work for?

8 A Olympic Tug and Barge.

9 JUDGE SANDRON: Do we have that spelling?

10 MR. HILGENFELD: We don't, I believe, and I have no idea.

11 JUDGE SANDRON: Do -- do you know how to spell that name?

12 THE WITNESS: Yes, it's J-A-I-M-E, Sandige, S-A-N-D-I-G-E.

13 He -- he didn't work for us during the period of Leo's birth.

14 Q BY MR. HILGENFELD: Okay. Do you know when he was hired?

15 A Not off the top of my head.

16 Q Who -- who hires the crew members aboard Olympic Tug and
17 Barges vessels?

18 A Myself, Byron Peterson, David Hanshaw, and Jaime.

19 Q Who hires the port captains?

20 A I do.

21 Q Who hires the shoreside management support for Olympic Tug
22 and Barge?

23 A I do.

24 JUDGE SANDRON: Are you the final decision maker on hires?

25 THE WITNESS: I am, yes.

1 Q BY MR. HILGENFELD: How about who is responsible for
2 firing employees at Olympic Tug and Barge?

3 A It's me.

4 Q And --

5 JUDGE SANDRON: Has it happened?

6 THE WITNESS: Yes.

7 JUDGE SANDRON: Okay.

8 Q BY MR. HILGENFELD: Probably more than you care to admit.

9 A Yeah. Well, it happens.

10 JUDGE SANDRON: Just want to make sure it's actual, not
11 theoretical.

12 THE WITNESS: Oh, no, I've -- I've acquired -- fired quite
13 a few people.

14 JUDGE SANDRON: Okay.

15 Q BY MR. HILGENFELD: Mr. Titland, who is responsible for
16 grating -- for creating personnel policies for Olympic Tug and
17 Barge?

18 A Well, if they're specifically for Olympic Tug and Barge,
19 it would be for me.

20 Q Are there some that are more widespread for all of the
21 operating companies?

22 A Yes.

23 MS. YASSERI: Objection. Vague as to policies.

24 MR. HILGENFELD: That's fine. Which -- I'm just trying to
25 clarify Mr. Titland --

1 JUDGE SANDRON: Well, it -- yeah, I can -- ask him and see
2 which ones.

3 MR. HILGENFELD: Yeah.

4 Q BY MR. HILGENFELD: So Mr. Titland, you'd said -- I guess,
5 which ones are you responsible for?

6 A I'm responsible for policies and procedures that only
7 affect Olympic Tug and Barge?

8 Q Are there procedures that affect other companies?

9 A Yes.

10 Q Okay. And what -- what are some of those procedures that
11 may affect the other companies?

12 JUDGE SANDRON: The company wide procedures.

13 THE WITNESS: Yeah, there's a book called the SMS, which
14 is the rule book for everyone, all of the subsidiaries.

15 Q BY MR. HILGENFELD: Is that the safety management system?

16 A Yes.

17 Q And, Mr. Titland, are you familiar with 2010 employee
18 handbook?

19 A Yes.

20 Q Does that apply to Olympic Tug and Barge employees?

21 A Yes.

22 Q And how would you describe that handbook for the Olympic
23 Tug and Barge employees?

24 A Geez, it's -- well, some of it has been amended. Some of
25 it is somewhat out of date.

1 JUDGE SANDRON: Is it still in operation though at this
2 point?

3 THE WITNESS: We still refer to it, yes. And the crew
4 members have access to it, but it's been officially altered and
5 there's parts of it that have been stricken.

6 JUDGE SANDRON: Do they issue like revisions on certain
7 portions formally or not? Is this practice?

8 THE WITNESS: You know, I'm not sure on that specific
9 document, but we do issue formal revisions on items, yes.

10 JUDGE SANDRON: I see.

11 Q BY MR. HILGENFELD: Mr. Titland, do you have any hiring or
12 firing authority for anyone that's employed with Centerline
13 Logistics?

14 A No.

15 Q Do you have -- do you perform any services or work for
16 Harley Marine Financing?

17 A Olympic Tug and Barge does.

18 Q I mean you personally?

19 A No.

20 Q So does -- does Olympic Tug and Barge own any of the long
21 term or short-term contra -- or long-term contracts it enters
22 into?

23 A No.

24 Q Who owns those contracts?

25 A Harley Marine Financing.

1 Q Okay.

2 JUDGE SANDRON: Does Harley Marine Financing negotiate the
3 contracts or does OTB actually negotiate? We probably have it
4 somewhere already in the record, but just to --

5 MR. HILGENFELD: Yeah. It's in the record already, Your
6 Honor. It's -- it's going to depend on the contract. Ms.
7 Beckman testified to --

8 JUDGE SANDRON: So we have it in the record.

9 Q BY MR. HILGENFELD: Does Olympic Tug and Barge provide tug
10 support services or ship assist services to other companies on
11 the West Coast?

12 A Yes.

13 Q Does Olympic Tug and Barge charge for those services?

14 JUDGE SANDRON: Are you talking about Centerline companies
15 or --

16 MR. HILGENFELD: I'm talking about all companies at first.

17 JUDGE SANDRON: All companies.

18 Q BY MR. HILGENFELD: Does Olympic Tug and Barge charge for
19 those services?

20 A Yes.

21 Q Does Olympic Tug and Barge also provide those tug -- those
22 tug services to other Centerline affiliated companies, such as
23 perhaps, Westoil Marine Services?

24 A Yes.

25 Q Does Olympic Tug and Barge or Leo Marine Services charge

1 for those services?

2 A Yes.

3 Q Do you know what the charging rate is?

4 A I think it's \$750 an hour.

5 Q Do you know if that's the same rate that Olympic Tug and
6 Barge charges other companies to use its tug services?

7 A It is, yes.

8 Q Does Olympic Tug and -- do you have knowledge of whether
9 Olympic Tug and Barge receives revenues based on the work it
10 performs under it's time charter agreements owned by Harley
11 Marine Financing?

12 A Olym -- yes, we do.

13 Q Does Olympic Tug and Barge -- do you have knowledge of
14 whether Olympic Tug and Barge pays for its utilities?

15 A Yes, we do.

16 Q Does Olympic Tug and Barge pay other bills for services?

17 A Yes.

18 Q Does Olympic Tug and Barge pay for the utilation -- pay
19 for the utilization of equipment?

20 A Yes.

21 Q Where -- where is Olympic Tug and Barge located?

22 A On the third floor at the office in Seattle.

23 Q And who's on the fourth floor?

24 A Centerline Logistics.

25 Q Do you have knowledge of whether Olympic Tug and Barge

1 allocates a portion of rent to payment to Centerline?

2 A Can you re -- repeat that please, sorry?

3 JUDGE SANDRON: Do -- do you pay rent to Centerline?

4 THE WITNESS: Oh, yes we do.

5 Q BY MR. HILGENFELD: Are you involved in any of the
6 accounting that's involved with that process?

7 A No.

8 Q When Leo Marine was -- do you know when Leo Marine was
9 formed?

10 A Yes.

11 Q And when was that, Mr. Titland?

12 A The beginning of February of 2021.

13 Q And when Leo Marine was formed, who was in charge of its
14 operations?

15 A I was initially, yes.

16 Q And then who's in charge of the San Francisco operations
17 now for Leo Marine?

18 A Bowman Harvey and Chris Baduin.

19 Q Okay. And who is in charge of Leo Marine operations for
20 L.A. now?

21 A Brian Vartan.

22 Q When Leo Marine was formed, did it have any operational
23 support in San Francisco or L.A.?

24 A No.

25 JUDGE SANDRON: We have a spelling already, right, the

1 earlier ones.

2 MR. HILGENFELD: We do if maybe the exception of Chris
3 Baduin, which is B-A-D-U-I-N.

4 Q BY MR. HILGENFELD: Mr. Titland, at some point in time in
5 February of 2017, did you receive a contact regarding the SIU
6 Union?

7 A Not in 2017.

8 Q In 2021. Thank you very much.

9 A I did, yes.

10 Q What do you recall -- who did you receive the contact
11 from, if you recall?

12 A A gentleman named Nick Marrone.

13 Q And what was your understanding of who Nick Marrone was?

14 A The SIU Union representative.

15 Q Did you have any knowledge or personal affiliation or know
16 Nick Marrone prior to that communication?

17 A Not at all.

18 JUDGE SANDRON: Did he identify himself and such, as you
19 recall?

20 THE WITNESS: You know, I can't recall him actually
21 identifying himself. I don't remember that specifically.

22 JUDGE SANDRON: All right.

23 THE WITNESS: But --

24 JUDGE SANDRON: But he -- he identified himself as from
25 the Union?

1 THE WITNESS: Yes.

2 Q BY MR. HILGENFELD: And was this -- I guess, how did Mr.
3 Marro -- Marrone reach out to you?

4 A I can't remember how I got his contact or -- I -- I don't
5 recall.

6 Q Do you recall what Mr. Marrone asked you?

7 A No, I don't. I don't.

8 Q Do you recall anything else about the communications with
9 Mr. Marrone?

10 A I recall asking you to handle Mr. --

11 Q We're not going to get into our conversations about that.

12 A All right.

13 Q Do you recall any communications with Mr. Marrone
14 regarding Seafarers International Union representation of Leo
15 Marine workers?

16 A No, I don't, really.

17 Q Do you have any knowledge of or any memory of what was
18 happening regarding Seafarers International Union and Leo
19 Marine workers in or around February of 2021?

20 A I remember signing the Union contract after reviewing it.

21 Q Did you attend Union negotiations?

22 A No.

23 Q Do you know who did attend Union negotiations?

24 A Other than you, no.

25 Q Do you remember anything else regarding the Seafarers



1 International Union and Leo Marine at that point in time?

2 A No.

3 MR. HILGENFELD: Your Honor, this may be a natural
4 breaking point. We're not -- I still have more questions
5 potentially for Mr. Titland, but I think it's a good breaking
6 point.

7 JUDGE SANDRON: For our recess, okay. So we'll take about
8 20 minutes maybe.

9 MR. HILGENFELD: Sure.

10 JUDGE SANDRON: Okay. Off the record.

11 (Off the record at 3:06 p.m.)

12 JUDGE SANDRON: Back on the record. Ms. Yasseri, I
13 understand that the Region received an email from the General
14 Counsel and do you want to read it into the record?

15 MS. YASSERI: Yes, Your Honor. We received an email from
16 Joan Sullivan, she's the Associate General Counsel. The email
17 was sent today at 3 p.m. Pacific Time. It states, subject
18 line: Early release for NLRB staff. "All, in an abundance of
19 caution, due to release of a police video on the East Coast at
20 7 p.m. Eastern, the General Counsel has authorized early
21 release for all Regional staff at 4 p.m. Mountain time, 3 p.m.
22 Pacific. Please let you staff know this information and ask
23 them to please leave the office.

24 JUDGE SANDRON: All right. Well, it would seem that in
25 terms of not taking any risks to anybody's safety that we

1 should adjourn early today based on that email. I assume, Mr.
2 Hilgenfeld, you agree with that?

3 MR. HILGENFELD: We agree, Your Honor.

4 JUDGE SANDRON: And Mr. Wojciechowski?

5 MR. WOJCIECHOWSKI: Yes, of course.

6 JUDGE SANDRON: So we will plan on resuming as we had
7 scheduled on Wednesday, February -- I think it's at 8 -- at 9
8 a.m. And if anything does come up before then, we can be in
9 contact. So everybody stay safe and have a good weekend.

10 MS. YASSERI: Thank you, Your Honor.

11 MR. HILGENFELD: Thank you, Your Honor. Thank you,
12 everyone.

13 JUDGE SANDRON: We stand adjourned.

14 THE WITNESS: Thank you, Your Honor.

15 **(Whereupon, the hearing in the above-entitled matter was**
16 **recessed at 3:37 p.m. until Wednesday, February 1, 2023 at 9:00**
17 **a.m.)**

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C E R T I F I C A T I O N

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 21, Case Numbers 19-CA-273208, 19-CA-273220, 19-CA-273226, 19-CA-273928, 19-CA-273985, 19-CA-273771, 19-CB-273986, 21-CA-273926, Leo Marine Services, Inc., Olympic Tug & Barge, Inc., and Centerline Logistics Corporation and Olympic Tug & Barge, Inc. and Centerline Logistics Corporation and Leo Marine Services, Inc. and Centerline Logistics Corporation, Westoil Marine Services, Inc., and Harley Marine Financing, LLC, held at the National Labor Relations Board, Region 21, 312 North Spring Street, Tenth Floor, Los Angeles, California 90012, on January 27, 2023, at 8:31 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.


JACQUELINE DENLINGER

Official Reporter